TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1960

No. 105

LAVERNE SLAGLE, ET AL., APPELLANTS,

vs.

OHIO.

APPEAL FROM THE SUPREME COURT OF THE STATE OF OHIO

FILED MAY 27, 1960

JURISDICTION POSTPONED OCTOBER 10, 1960

SUPREME COURT OF THE UNITED STATES

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No. 105

LAVERNE SLAGLE, ET AL., APPELLANTS,

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APPEAL FROM THE SUPREME COURT OF THE STATE OF OHIO

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[fol. 1]

IN THE COURT OF COMMON PLEAS OF STARK COUNTY, OHIO NINTH JUDICIAL DISTRICT, CANTON

No. 15972

STATE OF OHIO

—vs—

LAVERNE SLAGLE

PRAECIPE

And afterwards at a term of the Court of Common Pleas begun and held at the Court House in the City of Canton within and for the County of Stark and State of Ohio on the 14th day of September A.D. 1953, the Grand Jurors within and for the body of the County of Stark being called came, to-wit: C. M. Maratta, Mildred Z. Uncapher, Mary P. Sheridan, Louise R. Nusbaum, Arthur W. Leasure, Laura V. Kring, Robert W. Bush, Eva L. Deal, Margaret E. Davis, Grace B. McLinden, Philip E. Singer, Auzalia B. Strawn, Jennings B. Smith, Julia P. Shaub and Tillie Chapman. Whereupon the Court appointed C. M. Maratta, Foreman of the said Grand Jury. And the said Grand Jurors having been duly sworn, and having received a charge from the Court retired to deliberate. Afterwards at this same term of Court continued and held on the 24th day of December A.D. 1953, the said Grand Jurors came again into the Court and present by their foreman the following Bill of Indictment, to-wit:—

INDICTMENT FILED—December 24, 1953

Secret Indictment, Indictment for Contempt (Misdemeanor) The State of Ohio, Stark County, ss: In the Court of Common Pleas, Stark County, Ohio, of the term Sep-
[fol. 2] tember in the year of our Lord one thousand nine hundred and fifty-three. The Jurors of the Grand Jury of the County of Stark and State of Ohio, then and there duly impaneled, sworn and charged to inquire of and pre-

sent all offenses whatever committed within the limits of said County, on their oaths. In the name and by the authority of the State of Ohio, do find and present: That LaVerne Slagle, late of said County on or about the 21st day of October in the year of our Lord one thousand nine hundred and fifty-three, at the County of Stark, aforesaid, who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Isn't it a fact, that while you were still on Campus in 1939, you were the chairman of the Communist-Dominated Peace Mobilization Committee on the Ohio State Campus? Contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Second Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the authority of the State of Ohio aforesaid Do Further Find and Present that Laverne Slagle in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a [fol. 3] witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Isn't it a fact that you were active in an organization that the Communist Party set up known as the North Side Peace League? contrary

to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Third Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that LaVerne Slagle in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I will ask you, if it is not a fact that during 1941, you regularly held Communist party meetings at 105 West Lane Avenue, Columbus? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Fourth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid, and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that LaVerne Slagle in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated [fol. 4] in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Are you acquainted with Benjamin Davis? contrary to the form of the statute in such case made and provided

and against the peace and dignity of the State of Ohio. Fifth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that LaVerne Slagle in the county of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1952; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a authority (sic) of the members of said Commission who attended said hearing: Q. I will ask you, if it is not a fact that in July of 1944, you were elected Secretary of the Communist Party Political Association? contrary to the form of the statute of such case made and provided and against the peace and dignity of the State of Ohio, Sixth Count, And the Grand Jurors aforesaid, upon their oaths aforesaid, and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that LaVerne Slagle In the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of [fol. 5] the members of said Commission who attended said hearing: Q. Do you know Gus Hall? contrary to the form of the statute of such case made and provided and against

the peace and dignity of the State of Ohio. Seventh Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that LaVerne Slagle in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I will ask you if it is not a fact that on the 11th of October, 1947, you attended a secret meeting at the Hotel Carter in Cleveland which was called for all U.E. Organizers who were also delegates to the State Communist party convention? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Eighth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid: Do Further Find and Present that Laverne Slagle in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following [fol. 6] question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I will ask you if it is not a fact that on the 11th of October, 1947, you attended

a secret meeting at the Hotel Carter in Cleveland which was called for all U.E. Organizers who were also delegates to the State Communist party convention? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Eighth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid Do Further Find and Present that LaVerne Slagle in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Did you ever attend any Communist party meeting with Herbert Hirschberg? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Ninth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that LaVerne Slagle in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he re-

[fol. 7] fused to answer as a witness, when lawfully required to do so, the following question for which offense prosecution has been authorized by a majority of the members

of said Commission who attended said hearing: Q. During 1952, were you assigned by the Communist party in this area to work in the Progressive party? Contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio, Tenth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that LaVerne Slagle in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I will ask you if it is not a fact that you spoke at that time about the treatment that Communist party members were receiving in the United States? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. John Rossetti, Prosecuting Attorney—Stark County, Ohio. Endorsed:—A True Bill. * * *

[fol. 8] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 9]

IN THE COURT OF COMMON PLEAS OF STARK COUNTY, OHIO
NINTH JUDICIAL DISTRICT, CANTON

No. 15973

STATE OF OHIO

—vs—

PAUL BOHUS

INDICTMENT FILED—December 24, 1953

Secret Indictment. Indictment for Contempt (Misdemeanor). The State of Ohio, Stark County, ss: In the Court of Common Pleas, Stark County, Ohio, of the Term September in the year of our Lord One Thousand Nine Hundred and fifty-three. The Jurors of the Grand Jury [fol. 10] of the County of Stark and State of Ohio, then and there duly impaneled, sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their oaths, in the name and by the authority of the State of Ohio, do find and present: That Paul Bohus, late of said County on or about the 21st day of October in the year of our Lord One Thousand Nine Hundred and fifty-three, at the County of Stark, aforesaid, who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Now, were you out of the United States

at any time during that period? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Second Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution had been authorized by a majority of the members of said Commission who attended said hearing: Q. I will ask you if it is not a fact that on the 26th day of June, 1935, you did obtain a passport from the State Department and went to the Soviet Union? contrary to [fol. 11] the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Third Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who

attended said hearing: Q. As a matter of fact, on the basis of that passport that you obtained on June 26, 1935, you went to the Soviet Union and attended the International Lenin Institute; isn't that correct? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Fourth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Do you [fol. 12] know William O'Dell Noel? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Fifth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of

said Commission who attended said hearing: Q. I ask you if you were taught sabotage and the practical methods of sabotage at the Lenin Institute? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Sixth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the n[redacted] and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of members of said Commission who attended said hearing: Q. Now in the event your Communist party superiors here in the United States order you to commit sabotage in the event of an uprising on behalf of the Soviet Union, would you [fol. 13] commit sabotage for the Soviet Union? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Seventh Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which

offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Now, do you recall that back in 1937, the Communist Party for the State of Ohio put out a year book? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Eighth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said commission who attended said hearing: Q. Now, the address you gave at that time was 1868 Guernsey Street, Belair, Ohio; did you live at that address? contrary to the form of the Statute in such case made and provided [fol. 14] and against the peace and dignity of the State of Ohio. Ninth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following ques-

tion, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Did you ever hear of Louis Budenz? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Tenth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Paul Bohus in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which he could be lawfully interrogated in that he refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Mr. Bohus, in the event of a shooting war between our country and the Soviet Union, on which side would your sympathies and efforts be? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. John Rossetti, [fol. 15] Prosecuting Attorney—Stark County, Ohio. Endorsed:—A True Bill. * * *

[fol. 16] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 17]

IN THE COURT OF COMMON PLEAS OF STARK COUNTY, OHIO
NINTH JUDICIAL DISTRICT, CANTON

No. 15974

STATE OF OHIO

—vs.—

OLGA PERRY

INDICTMENT FILED—DECEMBER 24, 1953

Indictment For Contempt. Secret Indictment (Misdemeanor). The State of Ohio, Stark County, ss: In the Court of Common Pleas, Stark County, Ohio, of the Term September in the year of our Lord One Thousand Nine Hundred and Fifty-Three. The Jurors of the Grand Jury of the County of Stark and State of Ohio, then and there [fol. 18] duly impaneled, sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their oaths, in the name and by the authority of the State of Ohio, do find and present: That Olga Perry, late of said County on or about the 21st day of October in the year of our Lord one thousand nine hundred and fifty-three, at the County of Stark, aforesaid, who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who at-

tended said hearing: Q. What is your husband's name? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Second Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Olga Perry in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. What are your parents' names? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Third Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the [fol. 19] name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Olga Perry in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A. D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I will ask you if it is not a fact that in July 1940 you attended a meeting of a communist group, meeting in

Columbus, Ohio under the name of the Ohio Youth Conference? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Fourth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Olga Perry in the County of Stark, and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did there upon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Have you ever participated in any Communist gatherings here in Canton? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Fifth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and [fol. 20] by the authority of the State of Ohio aforesaid, Do Further Find and Present that Olga Perry in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Do you

know who Arnold Johnson is? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Sixth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Olga Perry in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I state as a fact and ask you to affirm or deny the fact that you attended a meeting held in Cleveland, Ohio, in October, 1944. contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Seventh Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that [fol. 21] Olga Perry in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commis-

sion who attended said hearing: Q. I will ask you if it is not a fact that on October 3, 1946, you held a meeting of the Communist youth arm, the American Youth for Democracy, in your own home? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Eighth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Olga Perry in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Now are you familiar with Gus Hall? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Ninth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Olga Perry in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had [fol. 22] been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question,

for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. As a matter of fact, she is the present treasurer of the Communist party herein, Canton, is she not? contrary to the form of the Statute, in such case made and provided and against the peace and dignity of the State of Ohio. Tenth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Olga Perry in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully ~~inter~~rogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Mrs. Perry, in the event of a shooting war between Soviet Russia and the United States on which side would your sympathies and your efforts be? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. John Rossetti, Prosecuting Attorney—Stark County, Ohio. Endorsed:—A True Bill. * * *

[fol. 23] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 24]

IN THE COURT OF COMMON PLEAS OF STARK COUNTY, OHIO
NINTH JUDICIAL DISTRICT, CANTON

No. 15975

STATE OF OHIO

—vs.—

EULA ANN COOPER

INDICTMENT FILED—DECEMBER 24, 1953

Secret Indictment. Indictment for Contempt (Misdemeanor). The State of Ohio, Stark County, SS: In the Court of Common Pleas, Stark County, Ohio, of the Term September in the year of our Lord One Thousand Nine Hundred and fifty-three. The Jurors of the Grand Jury [fol. 25] of the County of Stark and State of Ohio, then and there duly impaneled, sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their oaths, in the name and by the authority of the State of Ohio, do find and present: That Eula Ann Cooper, late of said County on or about the 21st day of October in the year of our Lord One Thousand Nine Hundred and fifty-three, at the County of Stark, aforesaid, who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Where did you reside prior to September, 1948? contrary to the form of

the statute in such case made and provided and against the peace and dignity of the State of Ohio. Second Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. November 20, 1909, what was your name at the time you were born; what was the name given you on baptism? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Third Count. And the [fol. 26] Grand Jurors aforesaid; upon their oaths aforesaid, and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Did you ever hear the name Beulah Long? contrary to the form of the Statute in

such case made and provided and against the peace and dignity of the State of Ohio. Fourth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Were you living in the State of Ohio during that period? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Fifth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in [fol. 27] the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Did you ever live in the City of St. Louis, Missouri? contrary to the form of the Statute in such case made and provided and against the peace and dig-

nity of the State of Ohio. Sixth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission, to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. What is your husband's name, Mrs. Cooper? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Seventh Count. And the Grand Jurors aforesaid, upon their oaths and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in the County of Stark and State aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said [fol. 28] County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Now, did you ever run for public office? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Eighth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the

State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I ask you if it is not a fact that at 3:17 P.M. on April 28, 1948, you filed your declaration of candidacy on this Communist Party Ticket? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Ninth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hear-
[fol. 29] ing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Are you married at the present time, Mrs. Cooper? contrary to the form of the Statute, in such case made and provided and against the peace and dignity of the State of Ohio. Tenth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Eula Ann Cooper in the County of

Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. In the event of a shooting war with Russia, would your sympathies lie with the United States or Russia? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. John Rossetti, Prosecuting Attorney—Stark County, Ohio. Endorsed:—A True Bill.

* * *

[fol. 30] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 31]

IN THE COURT OF COMMON PLEAS OF STARK COUNTY, OHIO
NINTH JUDICIAL DISTRICT, CANTON

No. 15976

STATE OF OHIO

—vs—

ROSE MLADAJAN

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* * * * * * *

INDICTMENT FILED—December 24, 1953

Secret Indictment. Indictment For Contempt (Misde-
[fol. 32] meanor). The State of Ohio, Stark County, SS: In the Court of Common Pleas, Stark County, Ohio, of the

Term of September in the year of our Lord one thousand nine hundred and fifty-three. The Jurors of the Grand Jury of the County of Stark and State of Ohio, then and there duly impaneled, sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their oaths, in the name and by the authority of the State of Ohio, do find and present: The Rose Mladajan, late of said County on or about the 21st day of October in the year of our Lord one thousand nine hundred and fifty-three, at the County of Stark, aforesaid, who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I ask you if it is not a fact that on January 12, 1944, you attended a meeting of the 10th Ward Branch of the Communist Party held at the Diana Cafe in Canton? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Second Count. And the Grand Jurors aforesaid, upon their oaths aforesaid, and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Rose Mladajan in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commis-
[fol. 33] sion to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized

by a majority of the members of said Commission who attended said hearing: Q. Now do you know of Elizabeth Gourley Flynn? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Third Count. And the Grand Jurors aforesaid, upon their oaths aforesaid, and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Rose Mladajan in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I will ask you if it is not a fact that in 1946 you signed the nominating petition for the communist party leader of Canton, Carl Gulyate, who was running for County Commissioner at the time? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Fourth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Rose Mladajan in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the [fol. 34] lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecu-

tion has been authorized by a majority of the members of said commission who attended said hearing: Q. Did you take any part in the American Slav Conference? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Fifth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Rose Mladajan in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Do you know who Gus Hall is? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Sixth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid Do Further Find and Present that Rose Mladajan in the County of Stark, and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being [fol. 35] duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify in a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Mrs. Mladajan, have you ever been

in meetings at the Croatian Hall at any time except in your capacity as an employee? contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio. Seventh Count. And the Grand Jurors aforesaid, upon their oaths aforesaid, and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Rose Mladajan in the County of Stark, and State of Ohio aforesaid, on or about the 21st day of October, A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. I ask you if it is not a fact that during 1952 you were assigned by the Summit County section of the Communist Party to work in the Progressive Party in Stark County? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Eighth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid, and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Rose Mladajan in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who has been lawfully subpoenaed to appear and [fol. 36] give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who at-

tended said hearing: Q. For the fund raising raffle, you agreed to furnish cakes which you had baked, isn't that true, Mrs. Mladajan? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. Ninth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Rose Mladajan in the County of Stark and State of Ohio aforesaid, on or about th 21st day of October A.D. 1953; who had been lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said Commission to tell the truth, did thereupon unlawfully refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Do you know anything about the political situation between the United States and the Soviet Union? contrary to the form of the Statute, in such case made and provided and against the peace and dignity of the State of Ohio. Tenth Count. And the Grand Jurors aforesaid, upon their oaths aforesaid and in the name and by the authority of the State of Ohio aforesaid, Do Further Find and Present that Rose Mladajan in the County of Stark and State of Ohio aforesaid, on or about the 21st day of October A.D. 1953; who had been [fol. 37] lawfully subpoenaed to appear and give testimony in said County and State, at a duly constituted hearing being held by the lawfully created Un-American Activities Commission of the State of Ohio, and after being duly and lawfully sworn by the Chairman of said commission to tell the truth, did thereupon refuse to testify to a matter regarding which she could be lawfully interrogated in that she refused to answer as a witness, when lawfully required to do so, the following question, for which offense prosecution has been authorized by a majority of the members of said Commission who attended said hearing: Q. Now do

you regard the Communist Party as a subversive and disloyal organization? contrary to the form of the Statute in such case made and provided and against the peace and dignity of the State of Ohio. John Rossetti, Prosecuting Attorney, Stark County, Ohio. Endorsed:—A True Bill. * * *

[fol. 38] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 39]

IN THE COURT OF COMMON PLEAS OF STARK COUNTY

No. 15972
No. 15973
No. 15974
No. 15975
No. 15976

STATE OF OHIO, Plaintiff,

vs.

LE VERNNE (LA VERNE) SLAGLE, PAUL BOHUS, OLGA PERRY, EULA ANN COOPER, ROSE MLADAJAN, Defendants.

Bill of Exceptions—Filed May 20, 1955

Trial Before the Honorable Paul G. Weber, Trial Judge, Commencing Monday, A. M., February 28, 1955.

APPEARANCES:

On Behalf of the State of Ohio:

John Rossetti, Prosecuting Attorney, Stark County, Ohio.

Earle E. Wise, Asst. Pros. Atty., Stark County, Ohio.

On Behalf of Defendants:

Joseph L. Hilton, Esq., Attorney at Law, Canton, Ohio.

Official Shorthand Reporter:

Elsie F. Pfeifer.

[fol. 40]

10:10 a. m., Monday—February 28, 1955:

COLLOQUY BETWEEN COURT AND COUNSEL

The Court: Alright, Cases No. 15974-6-5-2-3.

Mr. Rossetti: Each case is to be tried jointly, but the record should show a stipulation as to that.

Mr. Hilton: If it please the Court, with regard to what you call jointly, if I understand that correctly that will be taken, the one party say like, Slagle, at a time.

The Court: But all will be heard in this hearing.

Mr. Hilton: Yes. As I understand just one after another.

Mr. Wise: Against each individual separately.

Mr. Hilton: Yes.

The Court: In other words, five trials put on at the same time.

Mr. Hilton: Yes in one record. As I understand it just a combination record. Some of our motions may not be acted upon at this time, the matter may be reserved until final hearing, and things of that sort.

The Court: Mr. Prosecutor, the Court would like to ask is this proceeding under the indictments as a criminal offense or whether you are proceeding under the civil procedure of contempt.

[fol. 41] Mr. Wise: Your Honor please, the State of Ohio is proceeding this morning under the criminal contempt statute which is specifically 103.35.

Mr. Hilton: We are objecting as to criminal, not to civil.

The Court: Yes. What section?

Mr. Wise: By contempt section 103.35.

Mr. Hilton: Your Honor please, at this time I want to protect the rights of the defendants and object to this method of procedure. We are objecting to the proceeding as a criminal matter and practically all of the elements of the criminal nature we are objecting to because we feel that in accordance with the statute as it was drawn it was not the intention to be of a criminal nature but of a semi-quasi action in contempt, or a civil action of quasi-criminal nature, and also Your Honor, because there is a difference of opinion in the higher court as to exactly what this statute

intended any contempt to be, whether that should be of a criminal or civil nature, and under the law for such these defendants wish to protect the record, and so at this time [fol. 42] we are objecting to proceeding as a criminal offense.

The Court: Since the Prosecutor has elected to proceed under the criminal statute the objection is Overruled.

The next step would be for the arraignment.

Mr. Hilton: Does the Court wish to take each of them at this present time instead of having them separately?

The Court: Each one at the present time.

Mr. Hilton: Then Slagle I believe, is—

Mr. Wise: No. 15972.

Mr. Hilton: I think Your Honor please, as far as we are concerned they could all be arraigned one after the other at this time.

The Court: Yes, that's what the Court ruled.

Mr. Hilton: Will you step up please. (to defendants)

The Court: We will take them in numerical order.

Mr. Wise: Numerical order. Slagle, Bohus, Perry, Cooper and Miadajan.

The Court: Now Mr. Hilton is attorney for these defendants. I will have to ask if the indictments have been served more than 24 hours ago.

Mr. Hilton: Your Honor, the indictments have been served and we waive the reading of the indictments as they [fol. 43] all know the contempts as they have all been read to them. We will waive and will plead not guilty for each and every one.

The Court: I will have to ask each individually. First, Mr. Slagle, to the ten counts of the indictment how do you plead, guilty or not guilty.

A. Not guilty.

The Court: Mr. Bohus, to the ten counts of the indictment how do you plead?

A. Not guilty.

The Court: Olga Perry to the ten counts of the indictment how do you plead?

A. Not guilty.

The Court: And Eula Ann Cooper to the ten counts of the indictment how do you plead?

A. Your Honor, not guilty.

The Court: And Rose Mladajan, to the ten counts of the indictment how do you plead?

A. Not guilty.

The Court: Alright, you may retire.

Now under the procedure as elected by the Prosecutor's office the next step is the question of being entitled to a jury [fol. 44] trial. In all criminal cases such as this the defendant is entitled to claim trial by jury. Mr. Hilton, you, I understand, you are going to waive a jury trial.

Mr. Hilton: Your Honor please, in accordance with my previous motion and to protect the record, we are insisting this is not a jury matter. This is an ordinary summary proceeding of contempt and I wish to protect the record, and my clients are ready to waive a jury. We don't think a jury is either necessary or required in this type of action, and they will waive a jury.

The Court: Let each defendant sign his name in the presence of the Court.

Mr. Wise: Your Honor please, at this time the State of Ohio moves that in Case No. 15972, that the name, the first name of the defendant be corrected. I understand that correct spelling of the name La Verne is Le Vernne.

The Court: It may be so corrected and the indictment amended accordingly.

(Waiver of jury trial signed by each defendant except Rose Mladajan, in the presence of the Court.)

[fol. 45] The Court: She cannot read it, (Rose Mladajan), the Court will read it to her. This is a waiver of jury trial which says—"I, Rose Mladajan", is that the way it is pronounced—

A. Yes.

The Court: "defendant in the above cause, hereby voluntarily waive and relinquish my right to a trial by jury,

and elect to be tried to a Judge of the Court in which the said cause may be pending. I fully understand that under the laws of this state, I have a constitutional right to a trial by jury." Are you willing to sign that?

A. Yes. (Rose Mladajan signs waiver of jury trial.)

The Court: Mr. Prosecutor, you state you are proceeding under Revised Code Section 103.35. That's the procedure in this Committee of Un-American Activities?

Mr. Wise: That's right, Your Honor.

The Court: And what is the criminal section you have reference to?

Mr. Rossetti: Section 2705.03 to 2705.09.

The Court: Isn't that the civil contempt proceeding?

Mr. Hilton: That's what I thought.

[fol. 46] Mr. Wise: I don't think so.

The Court: Yes, that's the civil contempt proceedings.

Mr. Wise: That's right Your Honor, but under the Court of Appeals decision, and held by the Supreme Court, it is argued the offense itself is under 103.35, but the procedure would be followed under criminal—under 2705.02 to .09, inclusive.

The Court: The opinion in the Cincinnati case I believe, cites the section.

Mr. Wise: They cite it, 1 to 38 inclusive. That's the actual section that sets out the offense according to our contention. Our Court of Appeals contained 103.35.

The Court: You say the procedure is 2705.03—the penalty—the statute charging is what?

Mr. Wise: The penalty would be under .09—2705.09, the ten days, or .05 is the penalty section.

Mr. Hilton: Your Honor, I just wish to renew my motion insofar as opposing this procedural section which is surely definite. We still feel it ought to be a civil procedure rather than criminal.

The Court: Let's not argue that any further. The trial [fol. 47] courts have taken these matters in different ways and the Courts of Appeals have made decisions, we are now waiting for the Supreme Court to say the final answer to it.

Anything further before we proceed?

Ready Mr. Prosecutor?

Mr. Rossetti: We are ready Your Honor.

The Court: Mr. Hilton?

Mr. Hilton: I think so at this time.

The Court: Alright, the first witness.

Mr. Wise: We call Mr. Samuel Devine to the stand, Your Honor please.

SAMUEL L. DEVINE, called to maintain the issue on behalf of the State of Ohio, being first duly sworn by the Court, testified as follows:

Direct examination.

By Mr. Wise:

Q. Will you tell us your name?

A. Samuel Lee Devine.

Q. Where do you live?

A. Columbus, Ohio.

Q. And what is your occupation or profession?

A. I am an attorney at law.

[fol. 48] Q. And are you engaged in any other activity other than the practice of law?

A. Yes, I am also a member of the General Assembly.

Q. How long have you been a member of the General Assembly?

A. I am presently in my third term. I believe 1951 is when I started as a member.

Q. Were you a member of the General Assembly on October 21, 1953?

A. I was.

Q. And in what capacity were you serving on that day?

Mr. Hilton: Objecting to that.

The Court: Overruled, it's general, preliminary.

A. On October 21, 1953, I was chairman of the Ohio Un-American Activities Commission which was in fact the Ohio General Assembly.

Mr. Hilton: Object, and ask that be stricken.

The Court: Overruled.

By Mr. Wise:

Q. And as a member of that Committee what particular duties did you have, if any?

Mr. Hilton: Object.

The Court: Overruled.

Do you want a general objection to all of this?

[fol. 49] Mr. Hilton: Yes, we are objecting to these. I don't think his mere statement proves he is that.

The Court: Oh yes.

Mr. Hilton: That is the nature of my objection to each of these questions.

The Court: It is preliminary, you may proceed.

By Mr. Wise:

Q. You may answer.

(Stenographer read the question.)

A. On that particular day?

Mr. Hilton: On all of these note an—

The Court: Yes, note a general objection by the defendant.

By Mr. Wise:

Q. And what was your capacity and duties in relation to that Committee?

A. I was the chairman of that Commission from I believe, March 13th, or 17th, 1953, until the date the Commission expired on January 31, 1954, and in the capacity of chairman I had the duty to preside over the meetings and hearings conducted by the Commission.

Q. Now you say that you were chairman from sometime in March 1953?

A. I was.

[fol. 50] Q. And how was the chairmanship arrived at, or how were—how was it decided you were chairman?

A. The members of the Committee were appointed. The secretary was appointed by the president pro tem from the membership of the Senate and the House. The president pro tem of the Senate and the Speaker of the House are

members and are appointed jointly, and the president pro tem of the Senate and Speaker of the House call the first meeting, and that first meeting of the Commission was on I believe, March 13th, and recessed until March 17th, if I am not mistaken, at which time the members of the Commission elected a chairman, vice-chairman and secretary.

Q. And at that time you were elected chairman?

Mr. Hilton: Object to that. We have to have more than just his statement.

The Court: Overruled.

By Mr. Wise:

Q. I believe you have with you for Mr. Hilton a copy of the minutes of that meeting in March, at which time you were appointed chairman, or elected chairman, is that correct?

A. Yes sir, this is a copy of the minutes of the Un-American Activities meeting March 17, 1953.

[fol. 51] Q. And in these minutes it is recorded that you were elected chairman?

A. Yes sir.

Mr. Hilton: Objecting. It is the question of whether that—

Mr. Wise: I am not even introducing this. This man is the best evidence of that testimony.

The Court: You may see it if you so desire Mr. Hilton.

Mr. Hilton: Yes.

The Court: Mr. Hilton, these matters are all matters of public record, therefore, the Court will take judicial notice.

Mr. Wise: Take judicial notice of the fact it was established and Mr. Devine was chairman of the Commission as he so testified.

The Court: I said, matters of public record and judicial notice.

Mr. Hilton: Just to protect, Object to it, if it please the Court.

The Court: Yes.

By Mr. Wise:

Q. Now Mr. Devine, on October 21, 1953, where were you that day?

A. October 21, 1953, the Commission held a hearing here in Canton, Ohio.

[fol. 52] Q. That's in Stark County?

A. Yes sir, Stark County.

Q. Ohio?

A. Yes sir.

Q. At what place was the hearing held?

A. In the courthouse in Stark County, Ohio.

Q. And who was present of the Committee during those hearings?

A. I know I was present and I would have to refer to the minutes to actually tell you who else was present.

Q. Do you have those minutes with you?

A. I have a copy of those minutes. These minutes reveal that on Wednesday, October 21, 1953, at Canton, Ohio, those present were Chairman Devine, and members Jesse Yoder, Eugene Sawicki, Edward H. Dell, Robert Pollock and Wilbur L. Shull, then members of the Commission.

Mr. Hilton: Object to that.

The Court: Overruled.

By Mr. Wise:

Q. Now, what was the purpose of the meeting of that Commission here in Canton, Ohio, on the 21st of October 1953, Mr. Devine?

A. To conduct a hearing of persons in the Stark County area that had been subpoenaed before the Commission.

[fol. 53] Q. And for what purpose was the investigation being conducted?

A. The purpose of the investigation, the duty was placed upon the members of the Commission by the Legislature to first, investigate in the State of Ohio, to determine whether or not there were any subversive activities; second, if the Commission did find subversive activities to exist, to what extent; and third, to conduct hearings and make recommendations back to the General Assembly for laws to be

passed relating to any matters so found in existence in the State of Ohio.

Q. It was grounds in contemplation of papers for future legislation?

A. Yes sir.

Q. Now Mr. Devine, were there witnesses subpoenaed for that meeting here in Stark County?

A. Yes sir.

Q. And what witnesses were subpoenaed?

Mr. Hilton: Object.

The Court: If he knows he may answer.

A. Yes sir. The witnesses subpoenaed were La Verne Slagle, Paul Bohus, Eula Ann Cooper, Olga Perry and Rose Mladajan.

By Mr. Wise:

Q. And did those witnesses appear?

[fol. 54] A. Yes they did.

Q. And were questions directed to those witnesses by the Committee, or representatives of the Committee?

A. Yes sir.

Q. And were some of the questions— or did the witnesses refuse to answer some of the questions?

Mr. Hilton: Object.

The Court: If he knows he may answer.

A. Yes sir, these witnesses were asked questions and I don't believe that there were any limits in most of the answers that were given, but in most instances answers were declined to be given. Understand what I mean?

By Mr. Wise:

Q. Were the witnesses further directed to answer questions?

A. Yes sir, they were.

Q. By counsel or the Committee?

A. From time to time they were directed by the chair to answer questions propounded by counsel.

Q. Now was there a record taken of the Committee meeting here in Canton?

A. Yes sir.

Q. And who took that record, Mr. Devine?

A. Mr. Ed Hammock, reporter.

Q. What is his job?

[fol. 55] A. He is engaged in the business of shorthand reporting. He is I believe, the owner and partner of the firm of Hammock and Pace, Court Reporters, who operate a stenotype machine company.

Q. What was his capacity on the date of October 21, 1953, in Stark County, Ohio?

A. Official Reporter for hearings of the Un-American Activities Commission.

Q. He was employed by the Commission?

A. He was employed by the Commission.

Q. And Mr. Devine, at the time of the hearing were the witnesses administered an oath, if you know?

A. Yes, they were.

Mr. Hilton: Object, if Your Honor please.

The Court: Well, for the record, of course. This is just preliminary, working up to the—Overruled.

By Mr. Wise:

Q. Now Mr. Devine, after the hearings were concluded were there any actions taken by you as Chairman, and members of the Committee, the Un-American Activities Commission?

A. Yes sir.

Q. And what was that action you took?

A. The Committee, the Commission members attended a meeting—I believe it was December 1, 1953, at which time a resolution was passed by members of the Commission [fol. 56] directing me as the Chairman to request the Stark County Prosecutor's office to issue an action in contempt against these witnesses.

Q. You say a resolution was passed?

A. Yes sir.

Q. And what did you do as a result of that passing of that resolution?

A. I believe I transmitted copies of the resolution in each instance relating to each of these five individuals to the

Prosecutor of Stark County, Mr. Rossetti, with the recommendation that citations in contempt be issued.

(State's Exhibits "A" to "J" marked.)

Q. Now Mr. Devine, handing you what has been marked as State's Exhibit "A" through "J", identify those if you are able to.

Mr. Hilton: A general Exception to these.

A. State's "A" is a resolution passed by the Un-American Activities Commission adopted on the first day of December 1953, requesting the Chairman of the Commission to cause a proceeding for contempt to be filed and prosecuted in the Common Pleas Court of Stark County against Paul Bohus. State's Exhibit "B" is a request for the institution of proceedings for contempt made by me as Chairman of [fol. 57] the Commission relating to Paul Bohus.

By Mr. Wise:

Q. To whom is that directed sir?

A. "I hereby request the Prosecutor of Stark County"—

Q. Alright sir.

A. State's Exhibit "C", is a resolution similar to State's Exhibit "A", except it relates to Rose Mladajan. State's Exhibit "D", is the request to the Prosecutor relative to Rose Mladajan requesting the Prosecutor to institute proceedings in contempt. State's Exhibit "E" is a similar resolution relating to La Verne Slagle, and State's Exhibit "F" is the request to the Prosecutor relating to La Verne Slagle. State's Exhibit "G" is a resolution similar to State's Exhibit "A" relating to Olga Perry. State's Exhibit "H" is the request to the Prosecutor relating to Olga Perry. State's Exhibit "I" is a resolution relating to Eula Ann Cooper and State's Exhibit "J" is the request to the Prosecutor relating to Eula Ann Cooper.

Mr. Wise: At this time the State offers into evidence State's Exhibit "A" through "J".

The Court: Any objection.

Mr. Hilton: Just the usual objection at the present time.

The Court: Any specific objection.

[fol. 58] Mr. Hilton: What I have in mind Your Honor, is to whether these alone just from him or some sort of authority, whether this is sufficient.

The Court: Are those signatures on there, the signers; the signers of those signatures, members of the Commission?

A. Yes sir, my signature appears on there and the other signatures were signed in my presence and they were members of the Un-American Activities Commission at that time.

By Mr. Wise:

Q. Your signature appears on—

A. On two. On the Resolution, and my signature appears individually on the request to the Prosecutor.

By Mr. Hilton:

Q. Do you have some sort of written authorization, something, something from the Senate? Do you have some certificate of some kind as members of this Commission? Was anything at all given, a seal, or something?

A. No sir, our authority is in the statute.

By Mr. Hilton:

Q. Nothing from the Senate or from the House?

A. No.

The Court: They may be received.

[fol. 59] By Mr. Wise:

Q. Now Mr. Devine, you have testified that the witnesses that you named appeared and I believe, I understood you to

say they did not refuse to give no answer, but they refused to answer questions, is that correct?

A. Questions were propounded to them by the Legal Director, counsel for the Commission, and by some members of the Commission and in many instances they would—they declined to answer and stated various grounds for declining to answer.

Q. The witnesses subpoenaed that you mentioned, are they present in the courtroom?

A. Yes they are.

Q. Point them out please.

A. Sitting at the counsel table, the gentleman with his arms folded and glasses on I believe is Mr. Slagle.

The Court: Let the record show the witness identifies the defendant Mr. Slagle.

A. The other gentleman at the table with defense counsel I believe is Mr. Paul Bohus. Sitting in the back of the room, the lady with the white scarf around her head is Rose Mladajan. The lady beside her is Eula Ann Cooper, and the other lady remaining there I believe, is Olga Perry.

The Court: Let the record show he identifies the defendants. Is there any dispute as to that?

[fol. 60] Mr. Hilton: No, Your Honor.

Mr. Wise: I believe that's all.

The Court: So now so there is no misunderstanding, the testimony this witness has just given, and any matters on cross-examination, will apply to each and every one of the defendants' cases, right?

Mr. Hilton: Yes, I think so. I don't think at this time there is any question but what later if something turned up the Court would give us the privilege of having him brought back.

The Court: It's agreed this witness' testimony applies to each and every one of the defendants?

Mr. Hilton: Yes.

The Court: Let the record so show.

Cross examination of Samuel L. Devine.

By Mr. Hilton:

Q. You mentioned a moment ago that one of the purposes was to investigate and pass legislation, or to recommend the passage—now isn't it true that at the time of this par-
[fol. 61] ticular investigation there had been a law already recommended and passed upon the very subject upon which this Commission was attempting to act here in this community?

A. Yes sir.

Q. That as far as passing legislation that was not the purpose of the Committee here was it?

A. To pass legislation?

Q. Yes.

A. No, that wasn't the purpose of the Committee here.

Q. So when you stated a moment ago that was the purpose, that couldn't be the purpose because the law had already been passed?

A. The Committee in meeting here was the action of the Commission and I said the purpose in its organization was three-fold, amongst which was to recommend legislation. Now this legislation was enacted at the 100th General Assembly and the effect of the act was after the Canton hearing.

Q. But the law had already been passed as far as making the Un-American Activities Commission for the purpose of applying the law?

A. Yes, the reason that very law was passed created our general attorney and special assistants and also the Un-American Activities Commission, and rather than put off the investigation until that law began they conducted hear-
[fol. 62] ings effective the date of the act and sent us out.

Q. After the law was passed I think we agreed then any investigation here would be more of a grand jury matter wouldn't it?

Mr. Wise: Object.

By Mr. Hilton:

Q. In attempting to find out the personal life or views of the witnesses you subpoenaed?

Mr. Wise: Object.

The Court: Sustained, it's argumentative.

By Mr. Hilton:

Q. Well, will you tell me again what exactly was your purpose in having these witnesses appear before your Committee?

A. You mean these particular witnesses?

Q. These particular witnesses after the law had been passed.

A. The investigation had been continued through the entire year and the Canton hearings were set after subpoenas could have been served. Now the law had been enacted by the General Assembly but the effective date of the law, I believe the effective date was in November of 1953, if I am not mistaken.

[fol. 63] Q. Now this was an open public hearing?

A. Yes sir.

Q. There was no elements of secrecy of any kind in the—like a grand jury meeting, to any of the hearings?

A. No sir.

Q. Were any of these witnesses personally informed by you acting in your capacity as the Chairman that they would have an immunity for anything that they would testify to?

Mr. Rossetti: Object.

The Court: He may answer the question. It's a matter of law as to whether they had the right to be informed or not.

A. I don't recall whether I specifically told any of these witnesses as individuals that they had any immunity, or otherwise. The transcript of the testimony will show that.

By Mr. Hilton:

Q. With regard to the law itself, or the authority given to you in the law, are you able to say whether the law did give any immunity that is specifically in the law, or in the instructions given to you as Chairman.

Mr. Wise: Object.

(Stenographer read the question.)

[fol. 64] The Court: Sustained. That's a matter of law for the Court to decide. This Court has read the statute on immunity, whether he knew it or not wouldn't make any difference.

Mr. Hilton: Later on, I just wanted to check the law.

Q. Chairman Devine, I have before me page 113 in the matter of this Mr. Slagle, and I am reading at the bottom of the first page, and where I think you just—you were getting ready to start, just after Mr. Pollitt—

> "That case is concerned with this commission, Your Honor",

it's just a few lines down, it is your statement yourself, directed to evidently counsel apparently for Mr. Slagle—you say—

> "That might very well be, however, as you probably know, and as Mr. Scribner your associate knows",

I am not interested in that, but I am in this phrase—

> "We are not sitting in a judicial capacity. We have no judicial powers. We, therefore, are not in position to rule upon any motion you may present here."

From this I gather you as the Chairman, felt that an attorney could not present any motions of any kind before your body.

Mr. Wise: Object.

By Mr. Hilton:

Q. Am I right?

The Court: Sustained. The Court will have to allow that —not what his opinion was.

[fol. 65] Mr. Hilton: I am wanting to know if he did not instruct counsel so counsel couldn't make any motions.

Mr. Wise: Object.

A. No sir.

The Court: He may answer.

By Mr. Hilton:

Q. Were counsel allowed to file any motions?
A. Let me put it this way.

Mr. Wise: Your Honor, we are objecting. The record speaks for itself.

Mr. Hilton: He is Chairman.

Mr. Wise: You have the record and he doesn't.

The Court: The record speaks for itself naturally.

Mr. Hilton: If the whole record would be introduced, but it likely won't Your Honor—the record won't be introduced.

The Court: Probably from the standpoint of questions that might be raised.

Mr. Hilton: Object to all being introduced in evidence because it wouldn't be fair to my clients.

Mr. Wise: There is a record in this case.

The Court: Parts of the record probably like swearing in the witnesses. That of course, could be testified to, but [fol. 66] this Court read the transcript—this is a matter for the record—this Court read the testimony of all five witnesses over the week end. I can see they start out by their claim of immunity of the Fifth Amendment, then later on they just say they refuse to answer. That refusal goes back—they rely on the Fifth Amendment or some other constitutional amendments and this Court wouldn't know what they were unless he could refer back.

Mr. Hilton: In this, Your Honor, it isn't a matter of the record it's a matter of the Chairman toward the proceeding.

The Court: This Court isn't interested what his attitude was. As long as he followed the statute that's all this Court is interested in.

Mr. Hilton: On that question later on I intend to object to the whole authority because it doesn't give any discretion in any questions this Chairman could ask.

The Court: You mean the statute?

Mr. Hilton: Yes.

The Court: That's for the Court to determine, a matter of law, not for any testimony.

[fol. 67] Mr. Hilton: I would have to direct any objection to the law on the thing what happened, or the behavior of the Committee, but the law might, and the Committee might be a proper Committee but not properly acting.

The Court: We are here on only one question, whether the question was put to the witness and if it is material and not answered, then it is for the Court to find out.

Mr. Hilton: If this man says any question has to be answered, any question, do we not have some protection from that viewpoint.

The Court: The Court doesn't care what the viewpoint is, this Court will have to determine whether the question is material and within the scope of the statute irrespective of what this witness, or any witness, might hold what he thought his authority was.

Mr. Hilton: May I then not just have these two questions. I am wanting at least protection of my rights, and my clients' rights here. These two—one is, did this Committee take the view that it was not a judicial proceeding, and therefore, was not being conducted as a judicial meeting, and there is no point in any motions being filed by counsel.

[fol. 68] Mr. Wise: Object.

The Court: Mr. Hilton, you don't claim this is a judicial hearing?

Mr. Hilton: I am insisting it isn't, but the Chairman said it wasn't and I wanted that to appear in the record it wasn't.

The Court: It is defendants' attorney—I mean the witnesses' attorney could make the motions.

Mr. Hilton: He said not. He directed counsel to begin with the proceeding, they could not make any, that's what I am objecting to.

By the Court:

Q. Is that true?
A. No.

Mr. Wise: Let him ask a direct question and ask if he said that.

By Mr. Hilton:

Q. I will ask you to read the record at the page, just at the start there, when you say to counsel appearing—

A. These are my words and I said them—

"We are not sitting in a judicial capacity. We have no judicial powers. We, therefore, are not in position to rule upon any motion you may present here."

I believe counsel asked me if I denied them the right to file motions to which I answered, no, I didn't deny them the right. I said, we are not ruling on such motions merely [fol. 69] because we are a fact finding body and not sitting as a judicial committee.

The Court: That's right.

Mr. Hilton: In that the Commission entertained no motions from counsel.

A. We received them for the record, retained in our files, but made no ruling on the motions.

By Mr. Hilton:

Q. Could we say that was your viewpoint in all of these cases?

Mr. Wise: Object.

The Court: Sustained. If you want to ask if it was the procedure in all of these cases, but not his viewpoint.

By Mr. Hilton:

Q. Was that your procedure in all of these cases?

A. Yes sir.

Q. If you cared to ask counsel something you directed your question to counsel, is that correct?

A. Yes sir.

Q. And if counsel could talk your client could make motions but you made no ruling on the motions?

A. You are referring to counsel for the witness?

Q. Yes.

[fol. 70] A. Yes, if counsel wished to direct a question to us we would answer if we could. If it was a motion to us

we felt we didn't have the authority or jurisdiction to rule on any motion.

Q. Just one more question along this line. Now, with regard to questions, could you ask any question of a witness, any questions, was there any limitation in the power or authority you as Chairman had to ask questions?

Mr. Wise: Object.

The Court: Sustained. the statute speaks for itself.

By Mr. Hilton:

Q. Could I ask, as Chairman did you then, as the Chairman act upon any limitation of authority in the questions that you permitted to be asked?

Mr. Wise: Object.

The Court: Sustained. This Court is only interested in the ten counts or ten questions in each case. What the other questions were this Court is not concerned with at all.

Mr. Hilton: Well, as the Chairman—

The Court: Mr. Hilton, probably I can make myself a little clearer. Under the statute of Ohio setting up this Commission defining their duties as to procedure it granted the Commission certain leeway, but under more or less re-
[fol. 71] strictive specifications. Now when it came down to the hearings of some of these witnesses, the Court has to measure or determine the question of its materialities with the authority under the statute, not what he thought it was.

Mr. Hilton: I grant that, Judge, maybe—

The Court: First of all an indictment if it is material, there has to be a material question in line with the statute. If it is, then was there a refusal or contempt.

Mr. Hilton: But in the statute—pardon me, I am appearing a little argumentative, but they use the words, "proper questions".

The Court: We can come to that later on, the Court will allow you to file briefs. Now the proper question—first one question—what is the capital of Podunk. That wouldn't be a proper question and he couldn't violate any law by not

answering that. That's for the Court to determine, it's a matter of law whether the question is proper or not.

Mr. Hilton: I was just getting his viewpoint as Chairman as to his limitations, and later on some court decisions. [fol. 72] Fortunately there is little injury done to these people. If there is no limitation to the question that could be asked a lot of harm could be done by that type of committee.

The Court: Let's assume even if it could this Court is not interested in that.

Mr. Hilton: It may have this bearing as to whether the law itself would be constitutional.

The Court: That's just the very thing here, that's what these defendants are doing, refusing to answer questions the Committee thought were material. Now they were asked questions by the Committee, they were irresponsive to all of these. If that wasn't the purpose of the investigation they wouldn't have to answer questions and couldn't be held for any liability of any sort.

Mr. Hilton: Just one little different slant, that is, as far as the Commission is concerned. A demand could be made, asked like yourself—

The Court: They can refuse, then have the judicial court determine whether or not they are in contempt.

Mr. Hilton: May I still proffer the question I had?

The Court: Yes, you may proffer.

Mr. Hilton: I will leave the Court rule on it. The Court [fol. 73] has already ruled at this time this Commission—oh, one other question—it may be a little matter of law too, but I wish your answer.

The Court: We are not here to discuss the pros and cons, background, the purpose, and so on. If we get into that I know the Prosecutor could take others and argue just as well. We are going to stay to the issues in this case and stay away from other things that might bring the case into an argumentative attitude, and so on.

Mr. Hilton: I am trying to.

The Court: The only issue is, was the Committee properly set up, are they properly accused of contempt. Then the Court has to determine are these questions proper under the statute, and the intents and purposes of the statute

in setting up this Commission. And then the next question, the refusal to answer, are they guilty of contempt. That's the only issue we have.

Mr. Hilton: Except two things. I was just wanting the properness of the law. This one here on the questions [fol. 74] the Committee can ask, second, the statute that doesn't give any rights to prerogative for refusal to answer questions.

The Court: The statute couldn't possibly cover methodically every question that could be asked, it couldn't possibly. That's what is before the Court in this particular case, that's why the statute referred to contempt, if any is thought to be committed, referred to the Court for judicial determination. Whether it is without one or the other wouldn't make any difference to this Court.

Mr. Hilton: I wasn't particularly caring about his own particular attitude, but as the Chairman, the way he was conducting the meetings, that was all.

The Court: Is there any question now?

Mr. Wise: No there isn't.

Mr. Hilton: Just one other question.

The Court: That's the very thing the Court wants to stay away from. Stay with the issues, lay all other stuff aside.

Mr. Hilton: I am trying to as much as I can.

[fol. 75] By Mr. Hilton:

Q. When the Committee met do you recall exactly who was there at the first meeting, who was there when it opened?

A. You mean the Canton meeting?

Q. Yes.

A. I was there as Chairman, and the other members of the Commission I read in these minutes, Mr. Jesse Yoder, he is Representative from Dayton, Ohio, a member of the Commission; Eugene Sawicki from Cuyahoga County; Edward Dell, Middletown; Senator Robert Pollock, as everyone in Stark County knows; and Wilbur Shull, Franklin County.

Q. They were all at the opening meeting here in Stark County?

A. That's my recollection. Actually the transcript by Mr. Hammock will show.

Q. Then the minutes at this time were taken by this same gentleman that you refer to that took the testimony?

A. He doesn't officially take the minutes because he is not a member of the staff of the Commission. He was a paid reporter for the purpose of the hearing.

Q. Therefore, someone was authorized to take the minutes and did take the minutes?

A. The minutes were taken by the Legal Director of the Commission. I mean he was the one who conducted the [fol. 76] hearing and made the notations who was present and what went on.

Q. Those were made at the time—what I have in mind, the minutes were made like at the meeting the same day—I mean, your minutes were taken from day to day by someone especially appointed to take these?

A. I think not, not especially appointed, it was the duty of the secretary of the Commission to be responsible for the minutes.

Q. Then who is the secretary?

A. The secretary was Delbert L. Latta.

Q. Was that party present?

A. No sir, not at that hearing.

Q. He didn't get the minutes?

A. No sir.

Mr. Hilton: Object to any minutes without a duly appointed person to take care of them.

The Court: Overruled.

Mr. Wise: What minutes, Your Honor?

Mr. Hilton: Minutes of proceedings.

The Court: Overruled.

[fol. 77] Redirect examination of Samuel L. Devine.

By Mr. Wise:

Q. Mr. Devine, during the conduct of the investigation here in Stark County how was that investigation conducted physically? I mean, as to the witnesses who had been subpoenaed—were they interrogated separately, together,

were all present in the same room, could they hear the proceedings or were they separated and then brought in?

A. You mean the physical setup of the hearing?

Q. Yes.

A. We used a courtroom in this particular building and the members of the Commission sitting about a table, a large table, and the witness was called and sworn and sat at the end of the table there, if I am not mistaken, but other witnesses were permitted, it was a public hearing—they were not excluded, they used no separation of witnesses, or anything of that nature. The hearing was conducted in that form.

Q. When one was being examined all of these five, the other four, were present and could hear?

A. I presume they were present. There were no instructions, I don't recall it.

The Court: In other words, they could have been present if they wanted to.

A. Yes.

[fol. 78] Mr. Wise: That's all.

Mr. Hilton: That's all, but I am just reserving, if something comes up, the right to—

The Court: Yes.

We will have a little recess at this time.

11:15 a. m.

11:40 a. m.

Edwin H. Hammock, called to maintain the issue on behalf of the State of Ohio, being first duly sworn by the Court, testified as follows:

Direct examination.

By Mr. Rossetti:

Q. Will you state your name please?

A. Edwin H. Hammock.

Q. Where do you live Mr. Hammock?

A. Columbus, Ohio.

Q. What is your business or profession?

A. I am a professional stenographer and reporter.

Q. For whom are you employed?

A. I am a partner of the firm of Hammock and Pace.

[fol. 79] Q. How long have you been a professional reporter?

A. I am in my 26th year Mr. Rossetti.

Q. Now, in such capacity you were hired by the State Un-American Activities Commission?

A. I was.

Q. Will you tell the Court approximately the date you were hired?

Mr. Hilton: I don't object to that Your Honor.

The Court: Just go right to the questions, he was stenographer in this particular hearing.

By Mr. Rossetti:

Q. Mr. Hammock, did you have occasion to be in the City of Canton, Stark County, on October 21, 1953?

A. Yes sir.

Q. Will you tell the Court under what circumstances you came to Canton on that date?

A. I was informed of the Ohio Un-American Activities Commission had a hearing scheduled in this building on that date and I appeared here to report the proceedings.

Q. Can you tell the Court who was present at that meeting on that date? That is, what members of the Un-American Activities Commission?

A. Present were Mr. Devine, the former witness here who was Chairman, Wilbur Shull, Jesse Yoder, Robert Pollock, Eugene Sawicki, Edward Dell, members of the Commission.

[fol. 80] Q. Those names you have mentioned Mr. Hammock, are they, were they in the State Legislature at that time?

A. They were members of either the House or the Senate.

Q. What is the number that were present here?

A. Six.

Q. Mr. Hammock, was it your duty only to take the testi-

mony of the witnesses, or did you also take the minutes of the entire committee?

A. I took the entire proceedings as far as they related to the public hearing. I took no minutes of executive sessions of the Commission.

Q. You were not required to take minutes of the executive sessions?

A. That's right.

Q. Can you tell the Court the names of the witnesses that had been subpoenaed before that Commission that day?

A. The witnesses who appeared were Olga Perry, Paul Bohus; Eula Ann Cooper, Rose Mladajan, La Verne Slagle.

Q. Were those the only ones who appeared before the Commission or Committee that day?

A. They were.

Q. Was the hearing completed in one day?

A. It was.

Q. And were you seated along side the members of the Commission, Mr. Hammock?

A. Yes sir.

[fol. 81] Q. Can you recall the first witness that appeared before the Commission, or Committee?

A. I have no independent recollection. My notes indicate that Olga Perry was the first witness called.

Q. Do you have your stenographic notes with you?

A. Yes sir, I do.

Q. Were those stenographic notes made of the questions and answers of the questions put to these various witnesses, and answers made by them?

A. Yes sir.

Q. And Mr. Hammock, were those stenographic notes transcribed by you in the form of a transcript?

A. Under my supervision. I did not do the typing.

Q. Will you refer to your notes insofar as Case No. 15974 is concerned, State of Ohio vs. Olga Perry?

Mr. Hilton: Couldn't we keep this to Slagle first?

Mr. Wise: Olga Perry is first in the transcript. It's easier to proceed first in the transcript.

Mr. Hilton: I would rather Slagle come first.

By Mr. Wise:

Q. Does it make any difference which one you read first?
A. It makes no difference to me.
Q. Will you refer to your notes—

The Court: First, probably you could have a general question, were these witnesses sworn.

[fol. 82] A. Yes they were.

By the Court:

Q. Who did the swearing?
A. The witnesses were sworn by the Chairman of the Commission.

Mr. Hilton: On that question I am objecting to that on account of the recording. So that the Court knows my slant on that, the record does not have that down, it just says, "sworn", but does not have them under oath like you have logged here and the record showing, and in none of this does the record show the oath being given to them, or what was given them at all. Since the Court asked, and I do have a previous objection to that, because no place in the record does it show anything other than a general statement. This record is supposed to be an exact record and does not show they were sworn.

By Mr. Rossetti:

Q. Mr. Hammock, if you will please turn to page 115 of the transcript, and referring to line 16, will you read to the Court exactly what that says?
A. I have the page numbers, I do not have the line numbers as they appear.
[fol. 83] Q. Will you refer to the very first thing that was done insofar as the testimony of La Verne Slagle was concerned?
A. The question was asked—

"Will you state your name please?"

Q. Going to the first thing that was typed up by yourself Mr. Hammock—
A. What page?

Q. 115.

Mr. Hilton: 115.

By Mr. Rossetti:

Q. In other words, Mr. Hammock, do your minutes have this information—La Verne Slagle being first duly sworn testified as follows.

A. No those words.

Q. Does it have anything in there about the administering of the oath at all?

Mr. Rossetti: If I may interrupt at this time I don't think an oath has anything to do with the hearing.

The Court: Well, the question was raised by the defendant and this Court wants to know. The transcript, I have the printed transcript which says the first witness was "duly sworn and testified as follows". What do your notes show as to that?

[fol. 84] A. I have not found the place where this witness was sworn Judge.

Mr. Wise: Page 115, Mr. Hammock, after Mr. Pollitt's testimony.

A. The Chairman of the Commission said—

"All right. Please raise your right hand, Mr. Slagle."

And then I have in my notes, parenthesis—sworn by the chair.

By the Court:

Q. Was that done for each witness?

A. That was done in each case. I might say, Your Honor, it has been my custom as a reporter to always make a notation in my notes the very instant the oath is given and by whom the oath is administered.

The Court: That is sufficient.

Mr. Hilton: Object.

The Court: Overruled.

By Mr. Rossetti:

Q. If you will refer to your notes as far as the questions put to Mr. Slagle are concerned, I will ask you whether or not your stenographic notes have the following questions that were put to Mr. Slagle, page 122, line 20, Mr. Hammock—

"Isn't it a fact that while you were still on the campus in 1939, you were the chairman of the Communist-dominated Peace Mobilization Committee on the Ohio State campus?"

[fol. 85] Mr. Hilton: Object as to each one.

The Court: Why don't you do it right away?

Mr. Hilton: I am objecting to this question.

The Court: I understood you were going to make a motion applicable to all questions.

Mr. Hilton: I think I will Your Honor.

Counsel for the defendant is raising the following objections to this question and other questions which are to be asked:

1—The question is not a legal proper question, it is a composition of two or three questions rather than just one question.

2—It is not pertinent to the investigation and the purposes of the Un-American Committee.

3—It tends, or might tend to incriminate the defendant.

4—There is no demand made upon the defendant by the Chairman of the Committee in the form of an order for this witness to answer the question briefly. There was no indica-[fol. 86] tion by the Chairman of the Committee that this question would be treated any different than other questions by a demand from the Chairman, or the Committee itself, that the question be answered by this witness.

6—That the question would be in violation of constitutional rights of the defendant.

The Court: Motion accepted and at this time the Court will take the motion under consideration as to each and every question and answer that is given.

A. Yes.

By Mr. Rossetti:

Q. Mr. Hammock, was an answer given to that question?
A. After conferring with his counsel the witness said—

"Same answer."

Mr. Rossetti: Your Honor, this question is being asked for the purpose of determining the answer made by this defendant to the question that was just asked, and which was not answered, and in which the defendant said— "The same answer". I want this question of this witness to determine what answer was made by the defendant.

[fol. 87] The Court: You are going into every question of these fifty questions whether more or less the same.

Mr. Rossetti: If the Court wishes to simplify it I won't go into that then.

The Court: The prosecution is going to offer evidence toward the transcript as they testified. This Court will determine that rather than this witness. I think it is for the Court to determine what the answer means rather than what the witness might think.

By Mr. Rossetti:

Q. Mr. Hammock, do your notes contain this question, and tell the Court whether or not it was asked of the defendant La Verne Slagle, page 124, line 20—

"Isn't it a fact that you were active in an organization that the Communist Party set up known as the North Side Peace League?"

A. The question was asked.
Q. Was it answered?
A. Mr. Slagle said—

"Same answer."

Mr. Hilton: Same objection to each question.
The Court: Each and every question and answer.

By Mr. Rossetti:

Q. Page 125, line 16. I will ask you whether or not this [fol. 88] question was asked of Mr. Slagle:

"I will ask you if it is not a fact that during 1941, you regularly held Communist Party meetings in your home at 105 West Lane Avenue, Columbus?"

A. That question was asked.
Q. What answer was given by Mr. Slagle?
A. "The same answer."
Q. On page 126, line 11, please. Was this question asked of Mr. Slagle—

"Are you acquainted with Benjamin Davis?"

A. That question was asked.
Q. Was an answer given by Mr. Slagle?
A. After conferring with his counsel Mr. Slagle said—

"Same answer."

The Court: Before you go further the Court might state here the indictments state in each count that after the Chairman swore the witness—"he did thereupon unlawfully refuse to testify". He refused to answer as a witness. There was no—these answers stating the "same answer", there was no Bill of Particulars asked for in this case, is that correct, or in any of these cases.

Mr. Wise: Correct, Your Honor.

[fol. 89] The Court: Then I still think it is the Court's prerogative and also its duty in order to be informed as to what "same answer" means, to have to refer to the entire transcript and that will be my decision to the end as I understand the Prosecutor said he was going to introduce it.

Mr. Hilton: So that I see—as I understand here, you say the same question. There is no question but what an answer was made. Here you say the "same answer", it was an answer made by the defendant.

A. The defendant said those words.

Mr. Hilton: "The same answer." Too it wasn't a case he just stood mute and didn't answer anything, he just said "same answer", is that correct.

The Court: The Court will recess until about 1:15 p. m.

12:10 p. m.

[fol. 90] 1:18 p. m.—Monday—February 28, 1955:

Direct examination of Edwin H. Hammock (Contd.).

By Mr. Rossetti:

Mr. Hilton: No objection to proceeding without Olga Perry?

Mr. Rossetti: No objection.

Q. Will you refer to page 129, line 23, and will you tell the Court whether or not this question was asked of Mr. Slagle—

"I will ask you if it is not a fact that in July of 1944, you were elected secretary of the Communist Party Political Association?"

Mr. Hilton: Just a minute, which one is that? Same objection.

A. Yes, that question was asked.

By Mr. Rossetti:

Q. And what answer was made by the defendant La Verne Slagle to that question?

A. "Same answer."

Q. Will you refer to page 134, line 1, and was this question asked of Mr. Slagle—

"Do you know Gus Hall?"

A. That question was asked.

Q. And what answer was given by Mr. Slagle to that question?

A. "Same answer."

[fol. 91] Q. On the same page referring to line 24, was this question asked of Mr. Slagle—

"I will ask you if it is not a fact that on the 11th of October, 1947, you attended a secret meeting at the Hotel Carter in Cleveland, which was called for all

U. E. organizers who were also delegates to the State Communist Party convention?"

A. That question was asked.
Q. Was an answer made to that by Mr. Slagle?
A. The response was—"The same answer".
Q. Now referring to page 143, line 14, was this question asked Mr. Slagle—

"Did you ever attend any Communist Party meetings with Herbert Hirschberg?"

A. That question was asked.
Q. What answer was given?
A. The witness said—"Same answer."
Q. Now referring to the same page line 17, was this question asked of Mr. Slagle—

"During 1952, were you assigned by the Communist Party in this area to work in the Progressive Party?"

A. That question was asked.
Q. What answer was given by Mr. Slagle?
A. The witness responded, "The same answer".
[fol. 92] Q. On the same page, referring to line 25, was this question asked of Mr. Slagle—

"I will ask you if it is not a fact that you spoke at that time about the treatment that Communist Party members were receiving in the United States?"

A. That question was asked.
Q. What answer was given by Mr. Slagle?
A. "Same answer."
Q. Now Mr. Hammock, will you turn to your stenographic notes insofar as the questions that were asked of Paul Bohus are concerned.

Mr. Hilton: I can't tell what the Court may do afterwards, I can't tell what I may do, say in the event you take one and not the others, and so I could get a record without having too big an affair would be so we could pick out the stenographic notes, those pertaining to the individual.

The Court: Yes, in my decision I will decide on each individual question. Now, is there an objection to this witness being sworn, to Paul Bohus, or do you waive and admit they were all sworn?

Mr. Hilton: As far as you mean here this morning?

The Court: No, no.

[fol. 93] Mr. Hilton: No, I am not waiving my objection as to their being sworn, I still want an objection. My claim is they were not sworn because the record doesn't show definitely they were sworn.

The Court: I see. Well, we better go into that with each witness.

Mr. Hilton: If he is considering this Your Honor please, as closing on the Slagle matter, so I am protected on my right to file my motions, but so I could at the close file my motions if I may feel they are necessary on each individual case.

The Court: You may do so.

By Mr. Rossetti:

Q. Mr. Hammock, do you recall whether or not Paul Bohus was administered the oath before he testified?

A. Yes sir.

Q. Did you yourself witness the administering of the oath?

A. I did.

Q. Can you tell the Court what your notes reflect insofar as Mr. Bohus was sworn?

A. Mr. Isaacs, counsel for the Committee said—

"At this time, I would like to call Mr. Paul Bohus."

Mr. Bohus was sworn by the Chairman of the Commission.

[fol. 94] Q. If you will turn to page 38, line 5, can you tell the Court whether or not this question was asked of Mr. Bohus—

"Now, were you out of the United States at any time during that period?"

A. That question was asked.

The Court: Now before you go further there's just identically the matter I brought up formerly here from the bench, that the question itself without the further references, or other testimony, would mean nothing to the Court, if you see my point Mr. Hilton.

Mr. Hilton: I see your point but still insist this isn't a criminal matter.

The Court: It is a criminal matter.

Mr. Hilton: Limited to what they are charged with, not a whole lot of other things.

The Court: I don't want to repeat—if you filed a Bill of Particulars on that you probably could have raised this matter, but no Bill of Particulars was ever filed so the prosecution isn't limited to what that means. You may proceed. [fol. 95] Mr. Hilton: With that may we have the record show to each question the same objection raised before.

The Court: Yes.

By Mr. Rossetti:

Q. Was that question asked of Mr. Bohus?

A. Yes sir.

Q. Will you tell the Court what answer was given by him?

A.

"I refuse to answer on the basis of the Fifth Amendment."

Q. Now will you turn please to page 39, line 16. Was this question asked of Mr. Bohus—

"I will ask you if it is not a fact that on the 26th of June, 1935, you did obtain a passport from the State Department and went to the Soviet Union?"

A. That question was asked.

Q. Will you tell the Court what answer was given by Mr. Bohus?

A. The answer then—

"I refuse to answer that on the basis of the Fifth Amendment."

Q. Please turn to page 40, line 5. Was this question asked Mr. Bohus?

"As a matter of fact, on the basis of that passport that you obtained on June 26, 1935, you went to the Soviet Union and attended the International Lenin Institute; isn't that correct?"

A. That question was asked.

[fol. 96] Q. Will you tell the Court the answer given by Mr. Paul Bohus to that question?

A. The witness responded with—

"I refuse to answer that on the basis of the Fifth Amendment."

Q. Will you please turn to the same page line 11. Was this question asked of Mr. Bohus—

"Do you know William O'Dell Noel?"

A. That question was asked.

Q. And what answer was given by Mr. Bohus?

A.

"I refuse to answer that on the basis of the Fifth Amendment."

Q. Will you turn to page 42, line 4. Was the following question asked Mr. Bohus—

"I will ask if you were taught sabotage and the practical methods of sabotage at the Lenin Institute?"

A. That question was asked.

Q. Will you tell the Court what answer was given by Mr. Bohus to that question?

A.

"I refuse to answer that on the basis of the Fifth Amendment."

Q. Same page, line 19, Mr. Hammock please. Was this question asked of Mr. Bohus—

"Now in the event your Communist Party superiors here in the United States order you to commit sabotage

in the event of an uprising on behalf of the Soviet Union, would you commit sabotage for the Soviet Union?"

[fol. 97] A. That question was asked.

Q. And what answer was given by Mr. Bohus at that time?

A.

"I invoke the Fifth Amendment."

Q. Please turn to page 44, line 12, was this question asked of Mr. Bohus—

"Now, do you recall that back in 1937, the Communist Party for the State of Ohio put out a year book?"

A. That question was asked.

Q. And what answer did Mr. Bohus give to that question?

A.

"I decline to answer on the basis of the Fifth Amendment."

Q. On page 46, line 3, if you will please, was this question asked of Mr. Bohus—

"Now, the address you gave at that time was 1868 Guernsey Street, Bellaire, Ohio; did you live at that address?"

A. That question was asked.

Q. Will you tell the Court what answer Mr. Bohus gave to that question?

A.

"I refuse to answer."

Q. Will you turn to page 54, line 5. Was this question asked of Mr. Bohus—

"Did you ever hear of Louis Budenz?"

A. That question was asked.

Q. Will you tell the Court what answer was given to that question?

[fol. 98] A.

"I refuse to answer."

Q. Please turn to page 57, line 17. Was this question asked Mr. Bohus—

"Mr. Bohus, in the event of a war, a shooting war between our country and the Soviet Union, on which side would your sympathies and efforts be?"

A. That question was asked.

Q. Will you tell the Court what answer was given to that question by Mr. Bohus?

A. The witness responded—

"I refuse to answer that on the basis of the Fifth Amendment."

Q. Now Mr. Hammock, will you refer to your notes, to the questions put to Olga Perry.

Mr. Hilton: To reserve my rights—

The Court: Yes, the same objection and overruled—I mean, taken under consideration.

Mr. Hilton: The motion I will file later.

By Mr. Rossetti:

Q. Do you recall Mr. Hammock, whether or not Olga Perry was administered the oath before she testified?

By Mr. Hilton:

Q. I don't believe he asked you with regard to your notes. Our records do not show the exact swearing in of this witness, either of this witness, the preceding witness, or of any of the witnesses, do they?

[fol. 99] A. Not the language of the oath.

Mr. Hilton: That's all.

By Mr. Rossetti:

Q. Mr. Hammock, do you recall whether or not Olga Perry was sworn before she testified?

A. I do.

Q. Was she sworn?

A. She was sworn.

Q. Who administered the oath to her?

A. The oath was administered by the Chairman, Mr. Devine.

Q. Now, will you please refer to page 5.

By the Court:

Q. What do your notes show as to that?

A. Counsel for the Commission, Mr. Isaacs, said—

"Mr. Chairman, as the first witness, I would like to call Olga Perry."

Mr. Devine, the Chairman, said—

"Mrs. Perry, would you raise your hand and be sworn?" My notes show in parenthesis—sworn by the Chairman. The Court: You may proceed.

By Mr. Rossetti:

Q. You have referred to page 5, line 9, Mr. Hammock?

A. Yes sir.

[fol. 100] Q. Do your notes indicate whether or not this question was asked of Olga Perry?

"What is your husband's name?"

A. It doesn't appear to be on page 5.

The Court: What page did you say?

Mr. Rossetti: Page 5.

A. I am sorry. Yes, that question was asked.

Q. What answer did Olga Perry give to that question?

A.

"I am sorry, but I will have to decline that under my federal constitution and state constitution because it is dealing in my private life."

Q. Will you refer to page 9, line 14. Was this question asked Olga Perry—

"What are your parents' names?"

A. Yes, that question was asked.
Q. What answer was given by Olga Perry at that time?
A. The witness said—

"I decline to answer because it is not pertinent in this testimony on the basis of the previous amendments that I have previously stated."

Q. Refer to page 10, line 22. Was this question asked Olga Perry—

"I ask you if it is not a fact that in July of 1940, you attended a meeting of a Communist group, meeting in Columbus, Ohio, under the name of the Ohio Youth Conference?"

[fol. 101] A. That question was asked.
Q. What answer did Olga Perry give to that question?
A.
"I decline to answer that for the same reasons stated."
Q. Refer to page 11, line 11, please. Was this question asked Olga Perry—

"Have you ever participated in any Communist gatherings here in Canton?"

A. Yes, that question was asked.
Q. What answer did Olga Perry give?
A.
"I decline to answer that question for the same reasons."

Q. Page 14, line 6. Was this question asked of Olga Perry—

"Do you know who Arnold Johnson is?"

A. Yes, that question was asked.
Q. Tell the Court what answer was given by Olga Perry?
A.
"I decline to answer that."
Q. Will you turn to page 16, line 14, please. Was this question asked Olga Perry—

"I state as a fact and ask you to affirm or deny the fact that you attended a meeting held in Cleveland, Ohio, in October of 1944?"

A. Yes, that question was asked.

Q. And what answer was made by Olga Perry to that question?

A.

"I decline to answer that."

[fol. 102] Q. Then turn to page 20, line 25, please. Was this question asked Olga Perry—

"I will ask you if it is not a fact that on October 3, 1946, you held a meeting of the Communist youth arm, the American Youth for Democracy, in your own home?"

A. Yes, that question was asked.

Q. Tell the Court what answer was given by Olga Perry?

A.

"I decline to answer."

Q. Page 23, line 10. Was this question asked of Olga Perry—

"Now, are you familiar with Gus Hall?"

A. That question was asked.

Q. What answer did Olga Perry give to that question?

A.

"I decline to answer."

Q. Now page 24, line 21, please. Was this question asked Olga Perry—

"As a matter of fact, she is the present treasurer of the Communist Party here in Canton, is she not?"

A. That question was asked.

Q. What answer did Olga Perry give to that question?

A.

"I decline to answer."

Q. On page 25, line 12, please. Was this question asked of Olga Perry—

[fol. 103] "Mrs. Perry, in the event of a shooting war between Soviet Russia and the United States, on which side would your sympathies and your efforts be?"

A. Yes, that question was asked.

Q. Will you tell the Court what answer was given by Olga Perry to that?

A.

"I will decline to answer that question before this group because I don't think this is the proper group to ask me that question, but whenever the time comes that I will be asked that, I will have an answer for it."

Q. Now will you go to Eula Ann Cooper, Mr. Hammock please.

A. Can you refer me to the page number?

Mr. Wise: 60.

By Mr. Rossetti:

Q. Do you recall whether or not the oath was administered to Eula Ann Cooper before she testified?

A. I do.

Q. And by whom was the oath administered?

A. By the Chairman of the Commission, Mr. Devine.

Q. And what do your notes show relating to the fact as to whether or not Eula Ann Cooper was sworn?

A. Mr. Isaacs, counsel for the Commission, said—

"Mr. Chairman, I would like to call Eula Ann Cooper."

and my notes show in parenthesis—sworn by the chair.

[fol. 104] Mr. Hilton: Objecting just for the record, but the same as before, no exact words then on the oath.

A. Not the words of the oath.

The Court: Overruled.

By Mr. Rossetti:

Q. Will you please turn to page 61, line 17. Will you tell the Court whether or not this question was asked of Eula Ann Cooper—

"Where did you reside prior to September of 1948?"

A. That question was asked.

Q. Will you tell the Court what answer was made?

A.

"I decline."

Q. Page 65, line 22, Mr. Hammock please. Was this question asked of Eula Ann Cooper—

"Nov. 20, 1909. What was your name at the time you were born; what was the name given you on baptism?"

A. That question was asked.

Q. Will you tell the Court what answer was given by Eula Ann Cooper to that question?

A.

"I decline to answer that."

Q. Page 66, line 17. Was this question asked of Eula Ann Cooper—

"Did you ever hear the name Beulah Long?"

A. Yes, that question was asked.

[fol. 105] Q. Will you tell the Court what answer was given by Eula Ann Cooper to that question?

A. The witness responded—"I decline".

Q. Page 71, line 23. Was this question asked of Eula Ann Cooper—

"Were you living in the state of Ohio during that period?"

A. Yes, that question was asked.

Q. And what answer was given by Eula Ann Cooper to that question?

A.

"I decline to answer."

Q. Page 72, line 4, please. Was this question asked of Eula Ann Cooper—

"Did you ever live in the city of St. Louis, Missouri?"

A. Yes, that question was asked.

Q. And what answer was given by Eula Ann Cooper to that question?

A.

"I decline to answer, gentlemen."

Q. Same page, line 24. Was this question asked of Eula Ann Cooper—

"What is your husband's name, Mrs. Cooper?"

A. That question was asked.

Q. What answer did Eula Ann Cooper give to that question?

A.

"I decline to answer that."

[fol. 106] Q. Page 77, line 2 please. Was this question asked of Eula Ann Cooper—

"Now, did you ever run for public office?"

A. Yes, that question was asked.

Q. What answer did Eula Ann Cooper give to that question?

A.

"I decline."

Q. Page 78, line 9 please. Was this question asked of Eula Ann Cooper—

"I ask you if it is not a fact that at 3:17 p. m. on April 28, 1948, you filed your declaration of candidacy on this Communist Party ticket?"

A. Yes, that question was asked.

Q. What answer was given by Eula Ann Cooper to that question?

A.

"I decline to answer."

Q. Page 81, line 6 please. Was this question asked of Eula Ann Cooper—

"Are you married at the present time, Mrs. Cooper?"

A. Yes, that question was asked.

Q. What answer was given by Eula Ann Cooper to that question?

A.

"That is a matter of privacy, and it is not pertinent to this investigation. I do not wish to answer that at this time."

[fol. 107] Q. Will you please turn to page 82, line 6. Was this question asked of Eula Ann Cooper—

"In the event of a shooting war with Russia will your sympathies lie with the United States or Russia?"

I will re-ask the question, I am sorry. That's the correct line, 6?

The Court: That's the correct question he asked.

A. Repeat the question.

By Mr. Rossetti:

Q. Was this question asked of Eula Ann Cooper—

"In the event of a shooting war with Russia would your sympathies lie with the United States or Russia?"

Mr. Hilton: That's the one on line 10 then, that don't sound the same as 6 and 7.

A. That question was asked.

By Mr. Rossetti:

Q. Will you tell the Court what answer was given to that question by Eula Ann Cooper?

A. The witness responded—

"I decline to answer it."

Q. The question there was asked by Chairman Devine, Mr. Hammock?

Mr. Hilton: Then you are taking the questions starting from line 10?

Mr. Rossetti: Yes.

[fol. 108] Mr. Hilton: Right where it says relative to frivolous answers?

Mr. Wise: Is that what you were reading from?

A. I do not have the line numbers in my notes. The question that you asked appears in my records, it was asked in those words; whether or not it was on line 10 or line 6 I have no indication.

By Mr. Hilton:

Q. Do you have a question a line or so above, the question—

"Mrs. Cooper, in the event of a shooting war with Russia, on which side would your efforts and your sympathies be?"

Do you have that?

A. Yes.
Q. Do you have the answer to that question?
A. I do.
Q. And what is that?
A.

"Could they use a woman to fight the war?"

Q. And then you have this other question they asked?
A. Yes.
Q. And your answer there in which the witness said—

"I decline to answer."

A. Correct.

[fol. 109] By Mr. Rossetti:

Q. Will you turn to your notes in the case of Rose Mladajan, page 84, Mr. Hammock?
A. Yes.
Q. Mr. Hammock, will you tell the Court whether or not this defendant Rose Mladajan was administered the oath while you were present there that day?
A. Yes she was.
Q. Who administered the oath to her?

A. The Chairman of the Commission.

Q. Will you tell the Court if your notes reflect to the fact whether Rose Mladajan had been sworn?

A. Mr. Isaacs, counsel for the Commission said—

"I would like to call Rose Mladajan."

The Chairman said—

"Mrs. Mladajan, please stand and raise your right hand."

My notes indicate in parenthesis—sworn by the Chairman.

Q. Will you please turn to page 92, line 14—

Mr. Hilton: I am objecting.

The Court: Overruled.

Mr. Hilton: We are continuing the same way on these objections?

The Court: Yes.

[fol. 110] Q. Was this question asked of Rose Mladajan—

"I ask you if it is not a fact that on January 12, 1944, you attended a meeting of the Tenth Ward Branch of the Communist Party held at the Diana Cafe in Canton?"

A. That question was asked.

Q. Tell the Court what answer was given by Rose Mladajan to that question?

A. The witness responded—

"I decline."

Q. Will you turn to page 93, line 4. Was this question asked of Rose Mladajan—

"Now, do you know of Elizabeth Gurley Flynn?"

A. Yes, that question was asked.

Q. Tell the Court what answer was given to that question propounded to Rose Mladajan?

A.

"I decline to answer."

Q. On the same page, line 16. Was this question asked of Rose Mladajan?

"I will ask you if it is not a fact that in 1946, you signed the nominating petition for the Communist Party leader of Canton, Carl Gulyate, who was running for county commissioner at that time?"

A. Yes, that question was asked.

[fol. 111] Q. What was the answer given by Rose Mladajan to that question?

A.

"I decline to answer."

Q. Please turn to page 94, line 13. Was this question asked of Rose Mladajan—

"Did you take any part in the American-Slav Conference?"

A. That question was asked.

Q. Tell the Court what answer was given to that question by Rose Mladajan?

A.

"I decline to answer."

Q. Page 96, line 1. Was this question asked of Rose Mladajan—

"Do you know who Gus Hall is?"

A. Yes, that question was asked.

Q. And what answer was given to that question by Rose Mladajan?

A.

"I decline to answer."

Q. Page 100, line 5, please. Was this question asked of Rose Mladajan—

"Mrs. Mladajan, have you ever been in meetings at the Croatian Hall at any time except in your capacity as an employee?"

A. Yes, that question was asked.

Q. Will you tell the Court what answer was given by Rose Mladajan to that question?

[fol. 112] A. The witness responded—

"I decline to answer."

Q. On page 101, line 13. Was this question asked of Rose Mladajan—

"I ask you if it is not a fact that during 1952, you were assigned by the Summit County section of the Communist Party to work in the Progressive Party in Stark County?"

A. That question was asked.

Q. And what answer was given by Rose Mladajan to that question?

A.

"I decline to answer."

Q. Page 103, line 21. Was this question asked of Rose Mladajan—

"For that fund-raising raffle, you agreed to furnish cakes which you had baked, isn't that true, Mrs. Mladajan?"

A. Yes, that question was asked.

Q. Tell the Court what answer was given by Rose Mladajan to that question?

A. The witness responded—

"I decline to answer."

Q. On page 107, line 19. Was this question asked of Rose Mladajan—

"Do you know anything about the political situation between the United States and the Soviet Union?"

[fol. 113] A. Yes, that question was asked.

Q. And what answer did Rose Mladajan give to that question?

A.

"I decline to answer that question."

Q. Page 108, line 7. Was this question asked of Rose Mladajan—

"Now, do you regard the Communist Party as a subversive and disloyal organization?"

A. Yes, that question was asked.

Q. What answer was given by Rose Mladajan to that question?

A.

"I decline to answer."

Q. Now Mr. Hammock, have you been referring to the stenographic notes that you took of the questions put to the five defendants, La Verne Slagle, Rose Mladajan, Eula Ann Cooper, Olga Perry and Paul Bohus?

A. Yes sir.

Q. Did you transcribe your stenographic notes?

A. They were transcribed under my immediate supervision.

Q. Do you have a copy of the transcription of your notes?

A. I have my office copy.

Q. Do you have them with you?

(Witness hands transcript to Prosecutor.)

(State's Exhibit "K" marked.)

[fol. 114] Q. Mr. Hammock, handing you what has been marked as State's Exhibit "K", will you examine the exhibit and having examined it can you tell the Court what it is?

A. This is a carbon copy of the transcript which was made of the notes which were taken in the meeting of the Un-American Activities Commission held in this courthouse on October 21, 1953.

Q. Can you tell the Court whether or not that exhibit, or transcript, contains the questions that were propounded to these five defendants in this particular case?

A. I can, and it does.

Q. And does that transcript contain answers given by

these defendants to the questions put to them by the Un-American Activities Committee?

A. It does.

Q. Did you examine that transcript after it was transcribed under your supervision?

A. I did.

Q. Is that to the best of your recollection, is that accurately transcribed?

A. It is.

OFFER IN EVIDENCE

Mr. Rossetti: Your Honor, at this time we offer in evidence State's Exhibit "K".

[fol. 115] Mr. Hilton: Object, Your Honor please.

The Court: The Court is receiving it only for the purpose of clarifying the questions in the indictment. For instance, one question here is—

> "As a matter of fact, she is the present treasurer of the Communist Party here in Canton, is she not?"

That is one count, and the question says—pertaining to the question itself the Court would have to refer to some other matter of her testimony, or his testimony, to find out whom they were referring to. That is Olga Perry. So on the basis of only clarifying the question, or questions only, is the Court admitting it to be introduced in evidence at this time.

Mr. Hilton: Object to it. From my standpoint, I appreciate the Court's view, I can see the Court wouldn't know without some explanation, it not being clear, how far back, or how far either way with those questions. I can't tell ahead yet, maybe the Court can from time to time on some of those questions—that is, this particular one you had in [fol. 116] mind, I don't know if he would rule on two or three previous, back, or whether he wouldn't—it's hard to tell ahead how far, in the Court's judgment, to find out the properness of the question. I feel from the criminal angle whether the question must be put in such a way there is no question in the minds of the defendants that the question

is not only clear to answer, but in which the Commission demands an answer.

The Court: The Court will have to pass upon that, each question. If th question is ambiguous or the question isn't pertinent to the matters that's a matter of law for the Court to decide.

Mr. Hilton: I would like, so that I can give my explanation to each one of the questions in the form of a brief, if I can, but I would like the Court not to commit himself on the introduction of this entire matter until later. Later if he feels like he should, yes.

The Court: I am not going to do it until you submit briefs.

Mr. Hilton: I appreciate that. I would like to make some comment on about every one of the questions asked in my brief because it will help the Court get my viewpoint, it will help with our objections.

[fol. 117] The Court: Don't make it too long.

Mr. Rossetti: We have nothing further.

PLAINTIFF RESTS

The State rests.

The Court: Anything further by the State?

Mr. Rossetti: The State will rest.

Mr. Wise: Have you cross-examination of this witness?

Mr. Hilton: I don't believe so.

The Court: You are excused.

Mr. Hilton: I will file motions on behalf of all of them.

Mr. Wise: Can we know whether or not Mr. Hilton intends to put the defendants on the stand so we may know whether or not to tell our witnesses to leave.

The Court: Are you going to put on any defense outside of motions?

Mr. Hilton: As far as we are concerned I can't see they would have anything to do with the viewpoint we have.

The Court: Are you going to put on any witnesses?

Mr. Hilton: I am not Your Honor, sir.

[fol. 118] The Court: He is going to make his motions before he rests, with the professional understanding these gentlemen can leave.

Mr. Hilton: Just one minute.
The Court: We will have a short recess.

2:10 p. m.

2:25 p. m.—After Mid-morning Recess:

Defendants' Motion to Dismiss

Mr. Hilton: At this time Your Honor, at the close of the State's case I wish to file the following motion to dismiss:

1—That the State has failed to prove beyond the existence of a reasonable doubt the violation of any particular section of the General Code dealing with the criminal laws of the State, and particularly having reference to the section set forth by the State.

[fol. 119] 2—The defendant sets forth that the proof as introduced here does not show any demand or compulsion on the part of the Chairman of the Committee that the questions propounded, and particularly those questions as set forth in the indictment with which defendants are charged with having been, let's say, willfully refusing to answer, the Chairman did not directly make positive demands upon the witnesses to answer those questions as set forth in the indictment.

3. That the questions, some of the questions as in some counts upon which the defendants were charged, are questions in which on the face of them show no pertineney to any function of the Committee as the Committee was empowered by the Legislature. In other words, the Legislature gave the Committee the power—

The Court: Why not save that for your brief and just make your motion without argument.
[fol. 120] Mr. Hilton: Alright and the evidence does not show at any time where the witnesses were granted by the Chair any immunity from any prosecutions for answers to the questions which they may or may not have been ordered to answer.

4—That the evidence does not show that the Chairman, or the Board itself, considered any opportunity to the defen-

dants if they thought the defendants had been contemptuous to the Committee to purge themselves from the contemptuous behavior if the Committee so felt it was contemptuous.

5—For the further reason that this action should have been we believe, in the form of a civil contempt rather than criminal contempt, and question not only the laws as set forth by the plaintiff, the State, but the Act itself in directing that the act of the Legislature passed for the benefit of the Un-American Activities Committee intended at any time that it be of a criminal nature rather than a quasi-criminal contempt, and a summary proceeding being the proceedings [fol. 121] in which they had intended by the Legislature enactment to follow.

6—For the further reason that the evidence here shows that the legislative purpose to pass legislation had already been consummated by the Un-American Activities Committee at the time of the investigation of each of the defendants herein, and that the purpose of forming legislation had ceased, and that left no real purpose for the Committee to function in answering the questions of the Committee members, and thereafter acts after the passage of the law were not legal or proper action for the questions of these witnesses.

7—That the evidence does not show violation of the law.

8—That the evidence does not show violation of the law in a criminal case beyond the existence of a reasonable doubt.

Mr. Hilton: I believe Your Honor please, that's what—

The Court: The Court will take the motions under consideration for the reason I have to study fifty questions and [fol. 122] their answers in determining the meaning of some of the questions as it refers to other parts of the transcript of the whole testimony, and for that reason the Court will take all motions under consideration while studying these other matters.

Now I don't want any details—how soon Mr. Hilton, can you have—I don't want a lengthy brief.

Mr. Hilton: I know I wouldn't want to either. What time would the Court prefer. I know it would be better for me to get at it right away.

The Court: How long do you feel it would take you?

Mr. Hilton: Does the Court think Thursday or Friday?

The Court: I think by the end of the week. Is there any objection?

Mr. Rossetti: No.

The Court: This matter is not—time isn't of the essence, it's more of the effect of the results of the case as much as anything that counts. Then you will file a counter brief?

Mr. Rossetti: The Court will give us a week after that, or what?

The Court: If you had—this is Monday—had yours in by Saturday—the first thing Monday.

[fol. 123] Mr. Hilton: While I think of it, the question of the entire evidence, if the Court can get down to where the —if in the event of any necessity of the transcript, I would like to eliminate as much expense as possible, have as much deleted as necessary.

The Court: If I find other testimony isn't clear enough, and other is ambiguous, then of course, the State has failed. If a question like the one I referred to has an answer, and a question or two previous is clearly intended to refer to it, then the Court will state which question it is.

Mr. Hilton: So we get just the necessary part.

The Court: Does the defendant rest?

DEFENDANTS REST

Mr. Hilton: Yes, Your Honor, defendants Rest, and I renew the motion I have made, so this motion apparently closes the case.

Mr. Wise: Is the bond to be continued?

The Court: Yes, the bond will be continued.

2:35 p. m.

[fol. 124]

STATE'S EXHIBIT K

Meeting of the Ohio Un-American Activities Commission, held in Court Room No. 1, Stark County Court House, Canton, Ohio, on Wednesday, October 21, 1953, at 10:00 a. m., Chairman Samuel L. Devine, presiding.

PRESENT:

Samuel L. Devine, Chairman
Sidney Isaacs, Legal Director
Wilbur L. Shull
Jesse Yoder
Robert Pollock
Eugene Sawicki
Edward H. Dell

[fol. 125] PROCEEDINGS

Chairman Devine: The Commission will come to order. Let the record show that on this 21st day of October, 1953, the Ohio Un-American Activities Commission met in the Stark County Courthouse in Canton, Ohio. Let the record further show that, present and sitting on the Commission are:

Representative Jesse Yoder, Montgomery County; Senator Wilbur Shull, Franklin County; Senator Robert Pollock, Stark County; Representative Eugene Sawicki, Cuyahoga County; and the Chairman, Samuel Devine, Franklin County.

Let the record further show that five members constitute a quorum of this Commission.

As has been the policy of this Commission in the past, witnesses called to testify before it will be permitted to offer a statement at the conclusion of their testimony.

At this time, we would like to extend our appreciation to the people here in Stark County that cooperated with the Commission in preparing for this hearing, particularly the Chief of Police, James B. Quilligan; Captain Frank J. Bernoskey; and Stark County Sheriff, Harry W. Grosklaus;

and Ernest Smith of the Massillon Police Department. I would also like to thank Robert Myers, deputy sheriff; and he is hereby appointed sergeant-at-arms for this particular hearing.

I would also like to thank Judge Graham and the court [fol. 126] officials for making these facilities available here for the Commission today.

Mr. Isaacs, will you please call the first witness?

Mr. Isaacs: Mr. Chairman, as the first witness, I would like to call Olga Perry.

Chairman Devine: Mrs. Perry, would you raise your hand and be sworn?

OLGA PERRY being first duly sworn, testified as follows:

By Mr. Isaacs:

Q. You may be seated. Will you state your name, please?

A. Olga Perry.

Q. Now, Mrs. Perry, are you represented here by counsel today?

A. Yes, I am.

Mr. Isaacs: Will counsel please identify herself for the record?

Mrs. Furry: Thelma C. Furry, Akron, Ohio.

Mr. Isaacs: Mrs. Furry, you have previously represented witnesses before this commission, and are aware of the procedures involved?

Mrs. Furry: Yes, I am—I have.

By Mr. Isaacs:

Q. Mrs. Perry, where do you reside?

A. 2813 Fletcher Road.

[fol. 127] Q. Here in Canton, Ohio?

A. Yes.

Q. How long have you resided there?

A. About twelve or thirteen years.

Q. Where did you live before that time?

A. I think it was 2818 Harrisburg Road, Northeast.

Q. Now, are you married?

A. Yes, I am.

Q. What is your husband's name?

Chairman Devine: Let the record show that the witness and counsel are conferring.

A. I am sorry, but I will have to decline that under my federal constitution and state constitution because it is dealing in my private life.

By Mr. Isaacs:

Q. Do I understand, Mrs. Perry, you are refusing to answer that question that I have put to you as to the name of your husband, is that correct?

(The witness conferred with counsel.)

A. Yes, I am. I refuse to answer. As I said, it is dealing into my private life.

Q. You have had a lengthy conference with your counsel. Would you point out to the Commission what portions of the state or federal constitution you are relying on to prevent an inquiry into your private life?

[fol. 128] A. On the basis of Articles I, IV, V, IX, and XIV of the Federal Constitution.

Q. What is there in Article I of the Constitution to which you have just referred that you think gives you the right to refuse to answer that question?

(The witness conferred with counsel.)

A. I am not intending to get into a legal difficulty with you, because I am not familiar with the Constitution that well, and that is why I hired counsel to represent me.

Q. Then I understand that your refusal to answer is based on advice of counsel at this time; is that correct?

(The witness conferred with counsel.)

A. That is right.

Q. Now, are you familiar in a general way with the provisions of Article I of the Constitution?

(The witness conferred with counsel.)

A. Yes, I am.

Q. What does that article—what does that first amendment to the Constitution guarantee?

A. It deals with the question of freedom of speech.

Q. What is there that you think about the question that I have just asked you that interferes with or impinges upon your right of free speech?

Chairman Devine: Let the record show at this time that Senator Edward H. Dell of Middletown is now present and [fol. 129] seated with the Commission.

(The witness conferred with counsel.)

A. First of all, I want to answer you that by answering that question, it will lead to a chain of other questions, and another thing, why is it that my husband's name is so important in answering the—in going into further detail why I am called here?

By Mr. Isaacs:

Q. Do you want to make any discussion of the reason you are called here today?

(The witness conferred with counsel.)

A. I am asking you why is my husband's name pertinent.

Q. The purpose of identification; you have indicated that you are married. I am asking your husband's name, and you have given the answer which indicates that there is something about mentioning your husband's name that would tend to incriminate or degrade you. Of course, you know best what the relationship with your husband is. If you choose to refuse to answer on the basis that such an answer would make you subject to federal or state prosecution, I will only point out to you that possibly your counsel has already called to your attention a decision recently handed down by the Common Pleas Court of Franklin County which states that a witness may not avail himself of the amendments to the Federal Constitution in a hearing before a state commission before which the State of Ohio [fol. 130] is granted immunity for prosecution for any offense except perjury. Has your counsel recently called that to your attention?

(The witness conferred with counsel.)

A. My counsel has informed me on this, but that is only the opinion of one judge, and there are other courses in this country—

Mr. Isaacs: Mr. Chairman, I will ask that this witness be ordered to answer that question as to the name of her husband.

Chairman Devine: I understand that, notwithstanding the instruction given you by the counsel of this commission, you refuse to answer?

The Witness: That is right.

Chairman Devine: You are directed by the Chair to answer the question.

(The witness conferred with counsel.)

The Witness: I still decline for the three reasons previously given.

Mr. Isaacs: Mr. Chairman, I would like permission to have the record indicate that there is a full quorum of the Commission present at this time.

Chairman Devine: The record may so state. There are six members of the Commission sitting at this time.

By Mr. Isaacs:

[fol. 131] Q. Where are you employed, Mrs. Perry?

A. I am a housewife.

Q. And when was the last time that you were gainfully employed?

A. When I was employed steadily, it was about six years ago, and now, I have been working off and on, but that is just part time. My full employment is a housewife.

Q. Where have you been employed?

A. Royal Laundry.

Q. What kind of work do you do there?

A. Bookkeeping.

Q. Where and when were you born, Mrs. Perry?

A. 1920; New York City.

Q. What are your parents' names?

(The witness conferred with counsel.)

A. I decline to answer because it is not pertinent in this testimony on the basis of the previous amendments that I have previously stated.

Mr. Isaacs: Mr. Chairman, I ask that the witness be ordered and directed to answer that question.

Chairman Devine: Mrs. Perry, as was indicated to you by counsel when you were asked the name of your husband, he asked the name of your parents for purposes of identification. You are directed by the Chair to answer the question.

(The witness conferred with counsel.)

[fol. 132] The Witness: I still decline to answer for the pertinent reasons I have given before.

Chairman Devine: Let the record show that a quorum is present.

By Mr. Isaacs:

Q. Now, Mrs. Perry, are you now or have you ever been a member of the Communist Party in Stark County, Ohio?

(The witness conferred with counsel.)

A. I decline to answer that because, first of all, I decline to answer that on the basis of the Fifth Amendment. Second, I consider this an illegal commission who has not the authority to pry into individuals' lives.

Q. I may point out that the ruling of the Court of Common Pleas of Franklin County has ruled otherwise, but as you stated in your opinion, that is just one man's view.

A. That is correct.

Q. I ask you, Mrs. Perry, if it is not a fact that you have been active in Communist Party affairs here in Canton, Ohio, since 1940?

A. I decline to answer that for the same reasons stated previously.

Q. I ask you if it is not a fact that in July of 1940, you attended a meeting of a Communist group, meeting in Columbus, Ohio, under the name of the Ohio Youth Conference?

(The witness conferred with counsel.)

[fol. 133] A. I decline to answer that for the same reasons stated.

Q. Isn't it a fact that you attended that meeting as a representative of the Russian Youth Council of the International Workers Order in Canton?

(The witness conferred with counsel.)

A. I decline to answer for the same reason.

Q. Were you a member of the Russian Youth Council of the International Workers Order?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. Have you ever participated in any Communist gatherings here in Canton?

(The witness conferred with counsel.)

A. I decline to answer that question for the same reasons.

Q. Isn't it a fact that on the 3rd of May, 1942, at a Communist meeting at the Nimcilla Park here in Canton, you sold the Daily Worker in the crowd?

(The witness conferred with counsel.)

A. I decline to answer that for the reasons given previously.

Q. Now, do you know what the Daily Worker is?

(The witness conferred with counsel.)

A. I know what it is. It is a newspaper just like any other newspaper.

Q. I will ask you if on the 3rd of May, 1942, you sold that [fol. 134] newspaper at a Communist Party meeting in Nimsilla Park in Canton?

(The witness conferred with counsel.)

A. I will decline to answer that for the same reason.

Q. I will ask you if it is not also a fact that on that same date you assisted in the taking up of a collection of funds from the crowd?

(The witness conferred with counsel.)

A. I decline to answer that for the same reason.

Q. I will ask you if it is not a fact that you assisted in collecting $15 at that meeting?

(The witness conferred with counsel.)

A. I decline to answer.

Q. Now, have you ever been a member of the Young Communist League?

(The witness conferred with counsel.)

A. I decline to answer that for the previously given reasons.

Q. I will ask you if it is not a fact that during 1943, you were a member of the State Committee of the Young Communist League for the state of Ohio?

(The witness conferred with counsel.)

A. I will have to decline to answer.

Q. Now, when you say you have to decline to answer—

A. I decline to answer.

[fol. 135] Q. —that means you are refusing to answer that question?

A. I decline to answer it.

Q. I will ask you if it is not a fact that at that same time, you were the leader of the Young Communist League here in Canton, Ohio?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. How long have you been married?

(The witness conferred with counsel.)

A. Since 1940.

Q. Isn't it a fact that your present husband, John Perry, was also a member of the Young Communist League, and you first met him at a Young Communist League gathering?

(The witness conferred with counsel.)

A. I decline to answer.

Q. Isn't it a fact that on the 1st day of May, 1943, you

attended the Communist Party May Day rally which was held at Canton Music Hall?

(The witness conferred with counsel.)

A. I decline to answer that, too.

Chairman Devine: Mrs. Perry, when you decline to answer, are we to assume that you are declining on the same grounds you have heretofore given?

The Witness: That is right; that is correct.

By Mr. Isaacs:

[fol. 136] Q. Now, I will state it as a fact, and ask you to affirm or deny the fact that on July 9, 1943, you attended a meeting of the Stark County Communist Party?

(The witness conferred with counsel.)

A. I decline to answer that for the same reasons.

Q. Do you know who Arnold Johnson is?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. As a matter of fact, Arnold Johnson was formerly state secretary of the Communist Party here in the state of Ohio, isn't that correct?

(The witness conferred with counsel.)

A. I decline to answer.

Q. Since that time, Arnold Johnson has been convicted as a Communist traitor for conspiring to advocate the violent overthrow of the government of the United States; isn't that correct?

(The witness conferred with counsel.)

A. I decline to answer.

Q. On this night of July 9, 1943, that you attended, Arnold Johnson was the principal speaker, was he not?

(The witness conferred with counsel.)

A. I decline.

Q. I state as a fact and ask you to affirm or deny the fact, that, on September 12, 1943, you attended a showing of

[fol. 137] Communist propaganda movies at Canton Music Hall, which were sponsored by the Daily Worker Press Fund Committee?

(The witness conferred with counsel.)

A. I decline to answer that question.

Q. I state it as a fact and ask you to affirm or deny the fact, that on January 12, 1944, you attended a meeting of the Tenth Ward Club of the Communist Party held at the Diana Cafe on Belden Street in Canton?

(The witness conferred with counsel.)

A. I decline to answer.

Q. Have you ever been a member of the American Youth for Democracy?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. Have you ever heard of the American Youth for Democracy?

(The witness conferred with counsel.)

A. I have heard of it.

Q. What have you heard about it, Mrs. Perry?

(The witness conferred with counsel.)

A. I decline to answer that.

Mr. Isaacs: Mr. Chairman, inasmuch as the witness has, as she testified, heard about the American Youth for Democracy, I ask you to instruct her to answer the question.

Chairman Devine: You are instructed to answer the question, Mrs. Perry.

[fol. 138] (The witness conferred with counsel.)

The Witness: I decline to answer that for the previously stated reasons.

By Mr. Isaacs:

Q. As a matter of fact, American Youth for Democracy was the Communist Youth arm that succeeded the Communist Youth League?

A. I decline to answer.

Q. As a matter of fact, delegates to the American Communist Youth Conference met and formed this organization in the afternoon; isn't that correct?

(The witness conferred with counsel.)

A. I decline to answer.

Q. I state as a fact and ask you to affirm or deny the fact that you attended a meeting held in Cleveland, Ohio, in October of 1944?

A. I decline to answer that.

Q. Have you ever heard of John Williamson?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. As a matter of fact, John Williamson was formerly a Communist Party leader in the state of Ohio, and he has since been convicted for conspiring to advocate the violent overthrow of the United States government; isn't that correct?

(The witness conferred with counsel.)

[fol. 139] A. I decline to answer that.

Q. I will state as a fact and ask you to affirm or deny the fact that on March 4, 1945, you attended a state Communist political conference at the Akron Hotel in Akron, Ohio, at which John Williamson was the principal speaker?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. Have you ever heard of Elizabeth Gurley Flynn?

A. I decline to answer that.

Q. As a matter of fact, Elizabeth Gurley Flynn was a national Communist leader and she, too, has been convicted of conspiring to advocate the violent overthrow of the United States?

A. I decline to answer that.

Q. I will state as a fact and ask you to affirm or deny the fact that on April 3, 1945, you attended a banquet at the Sue Ming Restaurant in Canton, where Elizabeth Gurley Flynn was honored?

A. I decline to answer that.

Q. I will state it as a fact and ask you to affirm or deny the fact that on May 12, 1945, you attended a meeting of the state committee of the Communist Political Association which was held in the Communist Party headquarters at Cleveland, Ohio?

A. I decline to answer that.

[fol. 140] Q. I state it as a fact and ask you to affirm or deny the fact that on August 12, 1945, you attended a meeting sponsored by the Hungarian members of the Communist Party at Hungarian Hall where Communist Party traitor Arnold Johnson was the principal speaker?

A. I decline to answer that.

Q. I state it as a fact and ask you to affirm or deny the fact that on November 24, 1945, you attended a Communist Party sponsored mass meeting at Canton Music Hall where movies extolling the Soviet Union were shown?

(The witness conferred with counsel.)

A. I decline to answer that for previous reasons.

Q. I ask you if it is not a fact that during 1945, you regularly attended meetings of the Communist Party held at the Croatian Home, 1421 Superior, in Canton?

A. I decline to answer that.

Q. I ask you if it is not also a fact that during 1945, you served as the recording secretary of the Stark County Communist Party?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. I will state it as a fact and ask you to affirm or deny the fact that on February 6, 1946, you attended a Stark County Communist Party meeting where Elizabeth Gurley Flynn, convicted Communist traitor, was the principal speaker?

[fol. 141] A. I decline to answer.

Q. Are you familiar with an individual—do you know an indvidual named Jack R. Corkran?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. Jack Corkran was much more generous than you were. Jack Corkran in a sworn statement to the Commission says that on April 19 of 1946, a meeting of the American Youth for Democracy was held in your home on Fletcher Avenue in Canton, Ohio; is that correct?

A. I decline to answer that.

Q. Do you know who Frank Hashmall was?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. Frank Hashmall has been a Communist Party functionary, is now under indictment for conspiring to advocate the overthrow of the United States government, isn't that correct?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. I will ask you if it is not a fact that on this night of April 19, 1946, Frank Hashmall was the principal speaker concerning the American Youth for Democracy in your home?

A. I decline to answer that.

Q. I will ask you if it is not a fact that Leonard Henzel, Jr., was elected chairman of the American Youth for [fol. 142] Democracy in your home on this night?

A. I decline to answer.

Q. And Mrs. Edna Kaufman was also present at that meeting, isn't that correct?

A. I decline to answer.

Q. All these individuals are members of the Communist Party, isn't that correct?

A. I decline to answer.

Q. Have you ever attended any Communist Party schools?

A. I decline to answer that.

Q. I will ask you if it isn't a fact that in June of 1946, you attended Communist Party school given by Martin Chancey who was then state secretary of the Communist Party for the state of Ohio?

A. I decline to answer.

Q. I will ask you if it isn't a fact that during August of 1946, you signed a nominating petition for the then leader of the Communist Party in Canton, Ohio, Carl Gulyate, who was running for county commissioner?

A. I decline to answer.

Q. I will ask you if it isn't a fact that the petition that you signed for this Communist Party member was circulated by your own mother; isn't that correct?

A. I decline to answer.

Q. I will ask you if it is not a fact that on October 3, [fol. 143] 1946, you held a meeting of the Communist youth arm, the American Youth for Democracy, in your own home?

A. I decline to answer.

Q. Isn't it a fact that six new members for the A.Y.D. and the Communist Party were recruited at that time?

A. I decline to answer.

Q. I ask you if it is not a fact that on November 10, 1946, you attended a Communist Party-sponsored function on the 29th anniversary of the Soviet Union held at Canton Music Hall?

A. I decline to answer.

Q. I will ask you if it is not a fact that during 1946, you were a member of the executive board of the Communist Party for Stark County?

A. I decline to answer.

Q. I will ask you if it is not a fact that on the 19th of December in 1946, you attended a meeting of the American Youth for Democracy at which time, Frank Hashmall led in the discussion of plans to hang the effigy of Senator Bilbo on the Canton public square?

(The witness conferred with counsel.)

A. I decline to answer for the same reasons previously given.

Q. One of your little group present at that time, and in on that project, has since been electrocuted for murder; isn't [fol. 144] that correct?

A. I decline to answer.

Q. Do you know whether or not that is true?

A. I don't know.

Q. Do you know Howard Payton, or did you know Howard Payton?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. As a matter of fact, Howard Payton was one of your group that made the effigy of Senator Bilbo to be hanged, isn't that correct?

A. I decline to answer that.

Q. I will ask you if it is not a fact that during 1947, you served as secretary and treasurer of this Communist youth arm, American Youth for Democracy, here in Canton?

A. I decline to answer.

Q. I will ask you if it is not a fact that in January of 1948, you attended a Communist Party school given by Mike Davidow, a Communist Party member?

A. I decline to answer.

Q. Now, Mike Davidow was formerly Communist Party organizer for Summit County, isn't that correct?

A. I decline to answer.

Q. Subsequently became the organizer for Cuyahoga County for the Communist Party?

[fol. 145] A. I decline to answer.

Q. I will ask you if it is not a fact that on January 3, 1949, you were present at a meeting of the Stark County Communist Party at which Martin Chancey was the featured speaker?

A. I decline to answer.

Q. I will ask you if it is not a fact that you have been a member of Lodge 3020 of the Communist insurance organization, the International Workers Order?

A. I decline to answer.

Q. Now, are you familiar with Gus Hall?

A. I decline to answer.

Q. As a matter of fact, Gus Hall was the head of the Communist Party in the State of Ohio before he was convicted of conspiring to advocate the violent overthrow of the United States government, isn't that correct?

A. I decline to answer.

Q. Have you ever heard of Gus Hall?

A. I decline to answer.

Q. I state as a fact and ask you to affirm or deny the fact that on September 3, 1949, you attended a meeting of the Communist Party held at the Canton Music Hall here in Canton where Gus Hall was the featured speaker at the meeting?

A. I decline to answer.

Q. I state it as a fact and ask you to affirm or deny the fact that on February 4, 1951, you attended a William Z. [fol. 146] Foster birthday celebration at Croatian Home?

A. I decline to answer.

Q. Have you ever heard of William Z. Foster?

A. I decline to answer.

Q. As a matter of fact, he was the head of the Communist Party in the United States, wasn't he?

A. I decline to answer.

Q. Have you ever heard of Phillip Frankfeld?

A. I decline to answer.

Q. Phillip Frankfeld was formerly head of the Communist Party in this state and is now serving a term in the penitentiary for conspiring to violently overthrow the United States government?

A. I decline to answer.

Q. Didn't you hold a meeting with Phillip Frankfeld here in Canton at the time he was head of the Communist Party in the state of Ohio?

A. I decline to answer.

Q. Are you acquainted with Eva Nemeth?

A. I decline to answer.

Q. As a matter of fact, she is the present treasurer of the Communist Party here in Canton, is she not?

A. I decline to answer.

Q. And you are currently paying your Communist Party dues to her; isn't that correct?

[fol. 147] A. I decline to answer.

Q. I ask you if it is not a fact that you are now as of this moment an active member of the Communist Party?

A. I decline to answer.

Mr. Isaacs: I have no further questions of this witness.

Chairman Devine: Do any members of the Commission have any questions of Mrs. Perry?

Mr. Shull: Mr. Chairman.
Chairman Devine: Senator Shull.

By Mr. Shull:

Q. Mrs. Perry, in the event of a shooting war between Soviet Russia and the United States, on which side would your sympathies and your efforts be?

(The witness conferred with counsel.)

A. I will decline to answer that question before this group because I don't think this is the proper group to ask me that question, but whenever the time comes that I will be asked that, I will have an answer for it.

Mr. Shull: That is all.
Chairman Devine: You don't think this is the proper time, then, to answer that question, Mrs. Perry?

(The witness conferred with counsel.)

The Witness: I mean that you don't have the proper authority to ask me that question. I don't mean that this [fol. 148] is the proper time, but you don't have the proper authority to ask me to answer that question.

Mr. Isaacs: Mr. Chairman, I think this would be a good opportunity to request that. I ask that the witness be ordered and directed to answer that question.

The Witness: I still decline to answer that question for the reasons given.

Chairman Devine: Mrs. Perry, a number of witnesses have given responses similar that you have made today, that you question the authority of this commission; however, these questions have been presented in the proper place. As the chairman of this commission, I direct you to answer that question.

(The witness conferred with counsel.)

The Witness: I still decline to answer that for the previous reasons.

Chairman Devine: Let the record show that a quorum is present.

Any further questions?

Mr. Yoder: Mr. Chairman.
Chairman Devine: Mr. Yoder.

By Mr. Yoder:

Q. Mrs. Perry, if you are a good American citizen, whether this committee, as you feel, is proper or not, wouldn't you be proud to say which side you would owe your [fol. 149] allegiance to if there was a shooting war between the Soviet Union and the United States?

(The witness conferred with counsel.)

A. I would always be willing and glad to answer that question, but I am not—the way I see it now, I don't like to be forced to answer any such question.

Q. Wouldn't you be happy to do it voluntarily?

A. My answer stands.

By Mr. Isaacs:

Q. Actually, what you mean is that you are somewhat hampered here this morning by being under oath, and required to tell the truth; isn't that what you mean?

(The witness conferred with counsel.)

A. I am hampered not under oath, but with such a McCarthy commission as this, because whatever I say would be twisted and put in the wrong way instead of—

Q. Now, in a very few minutes, you will be released from your subpoena, and you will be no longer under legal compulsion to tell the truth. Will you then go out and say how completely loyal to the United States you are, but when you are forced to tell the truth, you have a great reluctance to place any answer on the record?

(The witness conferred with counsel.)

A. I will decline to answer that.

Chairman Devine: Any further questions by members? [fol. 150] Mrs. Perry, although you feel that any answer you may give here might be twisted by this, as you call it, McCarthy commission, it is very simple to say yes or no, and no twist can be given to that. Now, again, before you are released as a witness, and you are under oath, we are asking you with whom your sympathies lie in the event of

hostilities between United States of America and Soviet Russia?

(The witness conferred with counsel.)

The Witness: I know very well that if I would be—if I would answer that question, the door would be opened for further questioning, so I decline to answer for reasons previously stated.

By Mr. Dell:

Q. Mrs. Perry, is that your answer, or your counsel's?

A. That is my personal answer, but the advice from my counsel.

Q. Wasn't it suggested word for word by your counsel before you made it?

A. I don't think particularly so that I said it word for word. I am just trying to express my—rather, she is just trying to point out to me what my rights are, and what they aren't.

Mr. Isaacs: Senator Dell, I think you will find that that is essentially the same answer Mrs. Perry's counsel gave when she herself was a witness in Akron some time ago.

[fol. 151] Mr. Dell: I have such a distinct recollection.

Chairman Devine: Are there further questions by members of the Commission?

If not, you are excused.

Mr. Shull: Mr. Chairman, I think it would be well that counsel make a statement for the record as to the basis on which she has advised this witness not to answer questions.

Mrs. Furry: I will be most happy to, except my client would like to make her statement before she leaves the stand.

Mr. Shull: I thought she was being excused.

The Witness: I have a statement here I would like to make.

Mrs. Furry: You may proceed.

STATEMENT BY OLGA PERRY

The Witness: I as the wife of a World War II veteran, I am quite familiar with the terror, the worry and the

despair that the woman must always face while the man are off to war. Therefore, I have resolved to do everything within my power to avoid having to go through another war. At this time more than ever, I am particularly concerned on the question of peace, as I am the mother of a son myself.

I had hoped that we would never again have to live through the experience of seeing the men of our families involved in a war, especially so soon after the second one. This has been my moving and driving force in doing whatever I could do to help convince our citizens, our govern-
[fol. 152] ment, and our officials to do their utmost in bringing about and preserving peace. There are certain forces who seem to think that the word "peace" is a subversive word, and we try to convince the public that this is so. I have come to the conclusion that this is the reason why I have been called before this commission.

Chairman Devine: That is your statement, Mrs. Perry?

The Witness: That is right.

Chairman Devine: You may offer it for the record if you wish to do so.

You are excused.

Mr. Isaacs: Just a minute.

By Mr. Isaacs:

Q. Mrs. Perry, was it your desire to prevent a World War III that caused you to get active in the Communist Party in 1940, prior to World War II?

(The witness conferred with counsel.)

A. I decline to answer.

Q. As a matter of fact, when you joined the Communist sphere in 1940, the Communist Party line which you joined was to keep America out of World War II, isn't that correct?

A. I decline to answer.

Q. And then after we became the allies of the Soviet Union, your Communist Party line switched and you started advocating all-out aid for the Soviet Union, the opening of the second front; isn't that correct?

[fol. 153] A. I decline to answer.

Q. As a matter of fact, you have switched in turn with the Communist Party line since 1940; isn't that correct?

A. I decline to answer.

Q. Isn't it a fact that your statement which you read today is a totally false statement?

(The witness conferred with counsel.)

A. The statement I have just made is very sincere and it comes from the deepest inside of me.

Q. And you were equally sincere in 1940 in advocating the Communist Party line; isn't that correct?

A. I decline to answer.

Q. And in 1945, advocating the Communist Party line; isn't that correct?

A. I decline to answer.

Q. And in 1953 advocating the Communist Party line?

A. I decline to answer.

Mr. Isaacs: I have no further questions.

Chairman Devine: The witness is excused.

(Witness excused.)

Mr. Shull: I think, Mr. Chairman, that counsel for the witness who has a statement for the legal basis, purely a legal statement, the basis on which you claim this witness is guaranteed the privilege under the Constitution to refrain [fol. 154] from answering the questions?

STATEMENT BY COUNSEL

Mrs. Furry: I feel that under our Ohio Constitution, Article II, Section 32, first of all, that this commission has no authority to be holding sessions and subpoenaing witnesses, and I take my legal authority directly from Judge Bryant's opinion on Page 29, when he made this ruling on demurrer that your counsel is talking about today.

He says that the power given by the Ohio Constitution to set up these commissions and committees is to obtain through committees, or otherwise, information affecting legislative action under consideration or in contemplation of legislative action.

I state at this time this commission has finished its work when the Devine-Bauer bill was passed, that at that time this commission should have disbanded itself because the legislation it was working for was passed by the Legislature and, therefore, it has no purpose for being in existence at this time. That is the No. 1 point.

Of course, the other points that I dwell upon particularly is especially Amendment No. 1 of our Federal Constitution: Freedom of speech and association and conscience.

I refer especially to Article I of the Ohio Constitution. It says there shall be no interference with the right of conscience in the state of Ohio, and all these types of questioning are doing just that, trying to probe into people's [fol. 155] conscience, thoughts, philosophies; nothing else. I think that it is time—I think the best way to prove our Americanism and upholding our American heritage is to safeguard these constitutional privileges that were given to us by our forefathers. If we don't use them, they die out from disuse and we have to use them to keep them alive, and that is why I so advise my clients. Those are my main points.

Mr. Pollock: Did you ever hear a founder of this government or any of the leaders ever refuse to say whether they would be for America or against it?

Mrs. Furry: I have heard or read Jefferson's work particularly in which he has made the statement that minds of men must be free and that he, when he was questioned about his religious beliefs, particularly, he resisted it to the last dot, and if you are familiar, I have a copy of Jefferson's Bible that he himself took the little quotes out of Jesus' life. That was his Bible, and that he stood by, but he refused to discuss it when the politicians of his day tried to put him on the carpet for that. I did.

Mr. Pollock: Do you think he was at any time against your government, and in favor of another government?

Mrs. Furry: I don't know, but I know he was accused of being a French agent during his time; his political enemies accused him of being a French agent.

Mr. Isaacs: I would like to point out that Mrs. Furry [fol. 156] was a witness before this commission in Akron, and at that time, had no answers to give. I suggest inas-

much as she is not a witness at the present time, we not dwell on her philosophies, dreams, and aspirations which she mentioned in the statement which she handed the papers concerning her appearing before the Commission.

Mrs. Furry: I am merely making the statement at the request of your committee members. I did not—

Mr. Shull: I said a legal argument.

Chairman Devine: The Chair agrees with counsel that we should proceed and hear the witnesses that have been subpoenaed. Please call the next witness, Mr. Isaacs.

Mr. Isaacs: At this time, I would like to call Mr. Paul Bohus.

PAUL BOHUS being first duly sworn, testified as follows:

By Mr. Isaacs:

Q. Will you state your name, please?

A. My name is Paul Bohus.

Q. That is B-o-h-u-s? Correct?

A. Yes.

Q. You are represented here by the same counsel that represented Mrs. Perry, is that correct?

A. I am.

Q. Where do you reside, Mr. Bohus?

[fol. 157] A. 2429-23 Street, Northeast, Canton.

Q. How long have you resided there?

A. Well, let's see; it was 1949 when I started building the home; about six years.

Q. At the time you started building it, back in 1940, where did you live then?

A. I think I lived on—I don't know the exact number, but it was on 12th Street, Northeast.

Q. That is also here in Canton?

A. Yes.

Q. And how long have you been a resident of this county?

A. Since 1941.

Q. And where did you reside before that time; in what city?

A. I resided before that time in Bellaire, Ohio.

Q. How long did you live there in Bellaire?

A. Five or six years.

Q. How long have you been a resident of the state of Ohio?

A. About thirty years.

Q. Now, where and when were you born, Mr. Bohus?

A. I was born in Hungary, February 6, 1909.

Q. Now, you are at the present time a citizen of the United States, isn't that correct?

A. Right.

Q. How did you acquire that citizenship?

[fol. 158] A. Well, I was one year old when I come from Hungary with my father, and through his naturalization papers and according to the law in 1924, I automatically became a citizen.

Q. That was April 16, 1924; is that correct?

A. Yes.

Q. Now, where are you employed at the present time?

A. At the present time, I am unemployed. I was discharged immediately after the announcement of your commission for these hearings.

Q. Where were you employed at that time?

A. Leonard Henzel, Jr., mason contractor.

Q. Are you stating for the record that Leonard Henzel, Jr., fired you because you were subpoenaed to appear before this commission?

A. He told me that I had no more employment.

Q. Now, how long had you worked for him prior to that time?

A. About eighteen months.

Q. And for whom did you work before that?

A. Two years, I worked for Mike Kintz—another mason contractor.

Q. How do you spell that name?

A. K-i-n-t-z.

Q. For whom were you working in 1952; was that for Mike Kintz, or was that for Leonard Henzel, Jr.?

A. That was for Leonard Henzel, Jr.

[fol. 159] Q. Now, were you regularly employed by him all during that period?

A. Yes.

Q. And straight on down to the present time?

A. Yes.

Q. Was there any break in that employment by Leonard Henzel, Jr.?

A. No.

Q. Was there any break during January of 1953?

A. Oh, probably a few days here and there, in the cold weather; maybe a week or two, cold weather stopped us.

Q. You worked regularly during January, February, and March of 1953, except for a day or two?

A. Maybe a day or two or three when the cold weather set in.

Q. Prior to the time that you came to Canton, going back to around 1941, by whom were you employed?

A. I worked in the coal mines in those years.

Q. That was down in Bellaire county, is that?

A. Belmont county.

Q. Do you recall for whom you worked during the period from 1932 to 1935?

A. No, I don't remember.

Q. If I suggested Morelli Brothers Coal Company, would that—

[fol. 160] A. Yes, I worked there.

Q. And you were on the W.P.A. during part of that period, too, weren't you?

A. Yes.

Q. Now, were you out of the United States at any time during that period?

A. I refuse to answer this on the basis of the Fifth Amendment.

Q. If I understand you correctly, you are saying that if you were to say that you had been outside the United States at any time during the period that we are discussing, it might make you subject to some prosecution by the state or federal government?

A. I invoke the Fifth Amendment.

Q. I am going to assume that your counsel has fully instructed you in the effects of this decision by Judge Bryant of the Franklin County Common Pleas Court, and has also instructed you about your rights under the state and federal constitutions; that is correct, isn't it?

A. Counsel hasn't instructed me on that, but my own belief is that it is the private opinion of one judge, and my

rights under the Fifth Amendment have guaranteed me the position I have taken on that question.

Q. I suggest that you discuss with your counsel that if a ruling by the Franklin County Common Pleas Court in a [fol. 161] criminal case can be classed as a private opinion of one judge. You may find it has a more far-reaching effect.

(The witness conferred with counsel.)

A. It is not a matter of private opinion, but it is just one judge's opinion.

Q. Now, in this period that we are discussing, which is, particularly, around 1935, did you obtain a passport from the United States Department of State?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. Now, as a matter of fact, whether or not you obtained a passport from the State Department is a matter of public record, is it not?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. I will ask you if it is not a fact that on the 26th of June, 1935, you did obtain a passport from the State Department and went to the Soviet Union?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. Would you care to explain to this commission where the funds for that trip came from?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. You were working in the coal mines, and later on, [fol. 162] W.P.A.; Were you able to amass enough money on those jobs to take a trip to the Soviet Union?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. As a matter of fact, on the basis of that passport that you obtained on June 26, 1935, you went to the Soviet Union and attended the International Lenin Institute; isn't that correct?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. Do you know William O'Dell Noel?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. William O'Dell Noel, in testimony before the House Un-American Activities Commission, testified that he, too, like yourself, had attended the International Lenin Institute in Moscow, and he states that your theories—that your theoretical studies consisted of Marxian economics, Leninism, strike strategy, labor history, and he also says, "We studied how to dismantle the weapons of leading countries; that is, their main weapons such as rifles, machine guns, and so on. I also studied secret service codes, studied strategy beginning with the organization of a fraction, a shop fraction, clear up to control of a trade union or mass organization, and developed the political parallel along with it."

[fol. 163] He says that "the students were told in being initiated into the school that its purpose was to develop professional revolutionaries; that is, people who will spend all their time developing and leading for the Communist Party among the mass of people. It was understood, he said, before he went there, that that was the objective. The ultimate objective of the Communist Party was to overthrow the capitalist system of society, overthrow the government and change the capitalist system. Most of us thought when we went in there, it sounded all right; it had no terror for us."

Was that included in the course you took at the International Lenin Institute?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. Mr. Noel further testified under oath, "We were given regular military training; that is, we studied military science, strategy such as is general in all countries. Strategy is pretty much the same in countries of different geographical situations," and so on. "Then we were taught what was called partisan warfare, the science of civil warfare, revolutionary uprising, conspiratory type of warfare relating to the boring-in process, street fighting, how to mobilize in blocks, sabotage, how to wreck a train, close down factories, facilitate discontent, to raise the mob spirit

in order to get the men together and various other acts of [fol. 164] sabotage which, of course, could be attempted at a moment's notice, also the general method of derailing a train and destroying its cargo.

I ask you if you were taught sabotage and the practical methods of sabotage at the Lenin Institute?

A. I refuse to answer that on the basis of the Fifth Amendment.

Q. I ask you if you were taught how to wreck a train?

A. I invoke the Fifth Amendment to that question.

Q. I ask you if you were taught how to close down factories and facilitate discontent?

A. I invoke the Fifth Amendment.

Q. I ask you if you were taught how to raise the mob spirit?

A. I invoke the Fifth Amendment.

Q. I ask you if you were taught the general methods of derailing a train and destroying its cargo?

A. I invoke the Fifth Amendment.

Q. Now, in the event your Communist Party superiors here in the United States order you to commit sabotage in the event of an uprising on behalf of the Soviet Union, would you commit sabotage for the Soviet Union?

A. I invoke the Fifth Amendment.

Q. Will you make any statement to the Commission that you would not commit sabotage?

[fol. 165] A. I invoke the Fifth Amendment.

Q. Do you still feel that your loyalty and devotion lies solely on the side of the Soviet Union?

A. I invoke the Fifth Amendment.

Q. Upon your return from the Soviet Union, where you went to the International Lenin School, what was your employment?

A. I was unemployed.

Q. For how long after your return were you unemployed?

A. One correction; I want to invoke the Fifth Amendment.

Q. As to what question are you invoking the Fifth Amendment?

(The witness conferred with counsel.)

A. I invoke the Fifth Amendment as to my employment.

Q. Does it still remain as a fact that upon your return from the Soviet Union, you were unemployed for about a month?

A. I invoke the Fifth Amendment.

Q. Coming to the period after 1935, by whom were you employed?

(The witness conferred with counsel.)

A. That is about twenty years ago, and I just don't remember exactly, and I just refuse to answer that.

Q. Now, are you saying that you simply can't remember or that, remembering, you refuse to answer?

A. It has been a long time ago, as I said, about twenty [fol. 166] years ago. I don't remember, and I refuse to answer.

Q. Well, now, you think you would remember if, during that period, you were a paid functionary of the Communist Party?

(The witness conferred with counsel.)

A. I decline to answer that on the basis of the Fifth Amendment and First Amendment to the Constitution.

Q. Would it refresh your memory any if I suggested to you that during that period you were the secretary of the Communist Party for Belmont County?

A. I decline to answer that question on the basis of the Fifth Amendment.

Q. Now, do you recall that back in 1937, the Communist Party for the state of Ohio put out a year book?

A. I decline to answer on the basis of the Fifth Amendment.

Q. As a matter of fact, that the 1937 Communist Party year book lists you as a leader of the Young Communist League, isn't that correct?

A. I decline to answer on the basis of the Fifth Amendment.

Q. Were you a leader of the Young Communist League in 1937?

A. I decline to answer.

Q. Now, the next time the Communist Party put out a year book was in 1939; do you recall that?

A. I decline to answer.

Q. Isn't it a fact that the 1939 Communist Party year book lists you as the secretary of the Belmont County section of the Communist Party?

[fol. 167] A. I refuse to answer on the basis of the Fifth Amendent.

Pardon me. So it will be understood, probably there will be some more questions in this connection, I want it to be understood, when I say I refuse to answer, it is on the basis of the Fifth Amendment.

Chairman Devine: That will be noted in the record.

By Mr. Isaacs:

Q. Isn't it a fact that during 1940, you were a member of the state committee of the Communist Party, meeting in Cleveland, Ohio?

A. I refuse to answer.

Q. Isn't it a fact that, during that same period, you were secretary of the Communist Party in Belmont County in what was known as the Ohio Valley Section of the Communist Party?

A. I refuse to answer.

Q. Isn't it a fact that, during 1940, you were officially designated by the Communist Party of the State of Ohio as a presidential elector from the 18th district of Ohio?

A. I refuse to answer.

Q. Wasn't that the time that Earl Browder and James Ford were running for president and vice-president of the United States on the Communist Party ticket?

A. I refuse to answer.

Q. I ask you if it isn't a fact that, during 1940, you signed the Communist Party nominating petition for Earl Browder [fol. 168] as president of the United States?

A. I refuse to answer.

Q. Now, the address you gave at that time was 1868 Guernsey Street, Bellaire, Ohio; did you live at that address?

A. I refuse to answer.

Q. I will state it as a fact and ask you to affirm or deny the fact that on September 6, 1940, in your capacity as secretary of the Ohio Valley Section of the Communist Party, you signed a contract with Radio Station WWVA in the town of Wheeling, West Virginia, for a Communist Party broadcast?

A. I refuse to answer.

Q. Didn't you sign that on September 6, 1940, and designated yourself on the contract as the secretary of the Ohio Valley Section of the Communist Party?

A. I refuse to answer.

Q. Isn't it a fact that, during 1941, you served as a member of the Ohio State Committee of the Communist Party?

A. I refuse to answer.

Q. Now, you stated that you came to Canton, Ohio, in 1941; that is correct, isn't it?

A. Yes.

Q. Now, isn't it a fact that you were moved from the Ohio Valley Section to become the Stark County organizer for the Communist Party?

A. I refuse to answer that.

[fol. 169] Q. Almost immediately thereafter, you got on the job by distributing Communist Party literature at the gates of the Timken Roller Bearing plant here in Canton?

(The witness conferred with counsel.)

A. I refuse to answer.

Q. Isn't it a fact that on January 16, 1941, you were distributing Communist Party literature at the Timken gates?

A. I refuse to answer.

Q. Isn't it a fact that on October 11 and 12, 1941, you were a delegate from Stark County to the state convention of the Communist Party, held at the Finnish Hall in Cleveland, Ohio?

A. I refuse to answer.

Q. Isn't it a fact that on December 15, 1941, you were again distributing Communist Party literature at the gates of the Timken Roller Bearing Company?

A. I refuse to answer.

Q. And because of the fact that just a week previous to

that, the United States became an ally of the Soviet Union, you readily admitted at that time that you were a member of the Communist Party?

A. I refuse to answer.

Q. Did you on December 15, 1941, admit that you were a member of the Communist Party?

A. I refuse to answer.

[fol. 170] Q. I ask you if it is not a fact that on December 17, 1941, you attended a Communist Party win-the-war rally held at the Spanish-American War Center on Belden Avenue in Canton?

A. I refuse to answer.

Q. Isn't it a fact that Arnold Johnson, who has since been convicted as a traitor under the Smith Act, was the principal speaker at that meeting?

A. I refuse to answer.

Q. Isn't it a fact that, during 1942, you served as a member of the State Committee of the Communist Party for the state of Ohio?

A. I refuse to answer.

Q. Isn't it a fact that, during January of 1942 and thereafter, you and your wife were the distributors for the Communist Party newspaper, the Daily Worker, in Stark County?

A. I refuse to answer.

Q. On April 30, 1942, you were out in front of the Timken plant again distributing Communist Party literature calling for the opening of a second front in Europe; isn't that correct?

A. I refuse to answer.

Q. I will state it as a fact, and ask you to affirm or deny that on May 3, 1942, you sold Daily Workers to the crowd at the Communist Party meeting at Nimisilla Park here in Canton?

[fol. 171] A. I refuse to answer.

Q. I will ask you if it is not a fact that on October 24, 1942; you attended a Communist Party "Second-Front-Now"-rally at Cleveland Auditorium, where Earl Browder was the principal speaker?

A. I refuse to answer.

Q. I will ask you if it is not a fact that during 1942, you

were a member of the Ohio State Committee of the Communist Party serving as a representative from Stark County?

A. I refuse to answer.

Q. Isn't it a fact that, during 1942, you were the secretary and organizer of the Communist Party for Stark County?

A. I refuse to answer.

Q. I state as a fact and ask you to affirm or deny the fact that on January 16 and 17 of 1943, you were a delegate to the first session of the Ohio State Communist Party convention in Cleveland?

A. I refuse to answer.

Q. I will ask you if it is not a fact that at that session of the Ohio State Communist Party convention you reported on Communist activities in Stark County?

A. I refuse to answer.

Q. I will ask you if it is not also a fact that you were placed on the nominating committee at that convention?

A. I refuse to answer.

[fol. 172] Q. I will ask you if it is not a fact that on March 27, 1943, at a mass meeting of the State Committee of the Communist Party held at Public Hall in Cleveland, you were named on the honor roll of the state for your work in recruiting here in Stark County?

A. I refuse to answer.

Q. I will ask you if it is not a fact that on May 1, 1943, you attended the Communist Party May Day rally at Canton, Ohio?

A. I refuse to answer.

Q. Isn't it a fact that on May 9, 1943, you attended a Communist Party meeting at which new members were taken into membership at the Canton Music Hall?

A. I refuse to answer.

Q. I will ask you if it is not a fact that on July 9, 1943, you attended a Communist Party meeting held at the Diamond Cafe, where Arnold Johnson was the principal speaker?

A. I refuse to answer.

Q. I will ask you if it is not a fact that on October 2, 1943, you attended a meeting of the executive committee of the Ward 10 branch of the Communist Party which was held at the home of Leonard Henzel?

A. I refuse to answer.

Q. I will ask you if it is not a fact that on January 10, 1944, you attended a meeting of the Fourth Ward branch of [fol. 173] the Communist Party held at the Diamond Cafe?

A. I refuse to answer.

Q. I will state as a fact and ask you to affirm or deny the fact that on February 14, 1944, you attended a Communist Party Lenin-Lincoln memorial sponsored by the Fourth Ward of the Canton Communist Party?

A. I refuse to answer.

Q. Now, do you know who Arnold Johnson is?

A. I refuse to answer.

Q. You are aware that Arnold Johnson has been convicted as a traitor of the United States; that is correct, isn't it?

A. I refuse to answer.

Q. I state it as a fact and ask you to affirm or deny the fact that on June 17 and 18, 1944, you were a delegate from the Fourth Ward club of the Communist Party in Canton to the state convention of the Communist Political Association, which was held at Public Hall in Cleveland?

A. I refuse to answer.

Q. At that time, Arnold Johnson suggested that you be made a member of the State Committee of the Communist Political Association; isn't that correct?

A. I refuse to answer.

Q. I state it as a fact and ask you to affirm or deny the fact that on March 4, 1945, you attended the state conference of the Communist Political Association which was held at [fol. 174] the Akron Hotel in Akron?

A. I refuse to answer.

Q. I will ask you if it is not a fact that all during 1945, you were a regular member of the State Committee of the Communist Political Association?

A. I refuse to answer.

Q. During 1945, isn't it a fact that you were the membership secretary of the Communist Political Association for Canton?

A. I refuse to answer.

Q. Have you ever attended any Communist Party schools?

A. I refuse to answer.

Q. Isn't it a fact that during 1946, you attended the Communist Party school given here by Martin Chancey, who was then state secretary of the Communist Party?

A. I refuse to answer.

Q. I will ask you if it is not a fact that on July 1, 1946, you attended a meeting of the executive board of the Communist Party for Stark County which was held at the Croatian Home at 1421 Superior, in Canton?

A. I refuse to answer.

Q. I ask you if it is not a fact that Carl Gulyard, the chairman of the Stark County Communist Party, presided at that meeting?

A. I refuse to answer.

[fol. 175] Q. Isn't it a fact that during October of 1946, you were made the labor secretary of the Stark County Communist Party?

A. I refuse to answer.

Q. And also, during 1946, served as the president of the Steel Branch of the Canton Communist Party?

A. I refuse to answer.

Q. And also, during 1946, weren't you a member of the State Committee for the Communist Party for the state of Ohio?

A. I refuse to answer.

Q. Isn't it a fact that on August 23, 1947, you attended the Communist Party farewell dinner that was given for Communist Party leader Arnold Johnson held at the Swiss Hall in Cleveland, Ohio?

A. I refuse to answer.

Q. During 1948, weren't you the labor director of the Stark County Communist Party?

A. I refuse to answer.

Q. I will ask you if it is not a fact that, during March of 1953, you attended a meeting of the state committee of the Communist Party and were honored for your success in recruiting new Communist Party members here in Canton?

A. I refuse to answer.

Q. I ask you if it is not a fact that during May of 1953, you attended a meeting of the Ohio State Communist Party of Ohio held in the Allerton Hotel in Cleveland?

[fol. 176] A. I refuse to answer.

Q. Now, are you a member of the International Workers Order?

A. I refuse to answer.

Q. Did you ever hear of Louis Budenz?

A. I refuse to answer.

Q. Louis Budenz was formerly a high functionary of the Communist Party, and editor of the Daily Worker. He has said, "From my experience as a leading Communist, I can charge that every foreign language division within this fraternal organization"—speaking of the International Workers Order—"had an espionage apparatus of some sort working within it."

As a graduate of the International Lenin School, and as a member of Lodge No. 1077 of the International Workers Order, I will ask you if you ever engaged in espionage for the Soviet Union within the United States?

(The witness conferred with counsel.)

A. I have not.

Q. If you were requested by Communist Party officials to engage in espionage on behalf of the Soviet Union in the United States, would you so do?

(The witness conferred with counsel.)

A. I will invoke the First and Fifth Amendment as to this question.

[fol. 177] Q. In other words, what you are telling this commission, as far as acting as an espionage agent for the Soviet Union, you just haven't had the chance yet?

(The witness conferred with counsel.)

A. I decline to answer.

Q. Coming back for a moment to your employment, I believe I asked you concerning your employment during 1953, and you stated that just for a day or so, here and there; when the weather was inclement, you worked for Leonard Henzel, Jr.; is that correct?

A. Yes.

Q. And that you were continuously and regularly employed by him?

A. Yes, with the exception of bad weather.

Q. During that period of January, 1953, did you ever, in spite of your regular employment, make an application for unemployment compensation with the Bureau of Unemployment Compensation of the State of Ohio?

(The witness conferred with counsel.)

A. If I made application, then I was unemployed at the time for a week or two, whatever the occasion may have been.

Q. Now, isn't it a fact that you drew unemployment compensation in the amount of $207 during that period?

A. I don't remember. I decline to answer that.

Q. Isn't it a fact that you stated you were unemployed [fol. 178] from January 15, 1953, to March 21, 1953?

A. I don't remember, so I will have to decline.

Q. Well, now, at the time that you made an application for unemployment compensation, you signed an affidavit which states, "I do hereby solemnly swear or affirm that I do not advocate the overthrow of our government by force, and I am not a member of a party which advocates the overthrow of our government by force."

Now, don't you feel that your membership in the Communist Party was inconsistent with this oath that you filed with the Bureau of Unemployment Compensation in the State of Ohio?

(The witness conferred with counsel.)

A. I decline to answer this question on the basis of the Fifth Amendment.

Q. Mr. Bohus, I ask you if it isn't a fact that you are now, as of this moment, an active member of the Communist Party in the state of Ohio?

A. I decline to answer.

Chairman Devine: Do any members of the Commission have any questions to direct to this witness?

Mr. Dell: Mr. Chairman.

Chairman Devine: Senator Dell.

By Mr. Dell:

Q. Mr. Bohus, when you were in attendance at the Lenin [fol. 179] Institute at Moscow, was the Constitution of the

United States the subject of study or discussion or included in the curriculum of courses which you attended there?

A. I decline to answer that on the basis of the Fifth Amendment.

Chairman Devine: Further questions?

Senator Sawicki.

By Mr. Sawicki:

Q. Mr. Bohus, are you now or have you ever been a member of any organization, Communist or otherwise, which advocates the overthrow of the United States government by force or violence?

A. I refuse to answer that on the basis of the Fifth Amendment.

Chairman Devine: Senator Shull.

By Mr. Shull:

Q. Mr. Bohus, in the event of a war, a shooting war between our country and the Soviet Union, on which side would your sympathies and efforts be?

A. I refuse to answer that on the basis of the Fifth Amendment.

Chairman Devine: Is there anything further?

Apparently, you have a statement which you wish to offer for the record?

The Witness: Yes.

[fol. 180] Chairman Devine: You may offer it.

The Witness: Can I read it?

Chairman Devine: Yes, if it is not too long.

STATEMENT BY PAUL BOHUS

The Witness: I completed eight grades of elementary school. At the age of fourteen, I entered high school and was only able to complete one year because I came from a poor family, and the need was so great, I had to quit to help support the family's needs.

At the age of fifteen, my father took me to work in the coal mines in which I worked for about twelve years. Dur-

ing that period, there were many shut-downs when I had to look for employment elsewhere. Looking for work took me to Pittsburgh, and I found myself sleeping at night on park benches and thus learned for the first time the meaning of a depression.

During these years, I also learned of the industrialist blacklist system which forced me to need money and, therefore, by coming to Canton and working in the steel mills—I worked in steel for about seven years. It was in steel that I learned of the vicious speed-up system which today resulted in thousands of steel workers laid off. These workers are now faced with the same dilemma that I faced in my early years.

Breathing the steel dust in the mills, I soon found myself afflicted with a respiratory ailment, and was forced to quit. The only course left open for me and my family was to seek work where I would be in fresh air, so I chose home [fol. 181] building construction work, at which I have worked for the past five years.

During these last five years, my health forced me to cease activity for the cause of labor, using my spare time in building my home. I believe what I have done in the past was with the best interests of the American workers and the country. I believe no person should abuse and restrain any individual from using his rights of free speech and assemblage obtained in the Bill of Rights.

I believe that no one has a right to question my private beliefs as stated in Article I, Section 7, of our State Constitution.

Chairman Devine: Does that conclude your statement, Mr. Bohus?

The Witness: Yes.

Chairman Devine: Any further questions?

Mr. Isaacs: I have a question.

Chairman Devine: Counsel.

By Mr. Isaacs:

Q. You have stated the very poor financial background from which you have come, and the very difficult time you had during that period of getting along. Who paid your

travel and your expenses and your living when you were over in the Soviet Union during 1935?

A. I refuse to answer that on the basis of the Fifth Amendment.

[fol. 182] Q. You said that you were forced to come here to Canton in order to seek work. Isn't it a fact that you were transferred to Canton by the Communist Party?

A. I refuse to answer that on the basis of the Fifth Amendment.

Chairman Devine: Any further questions?

The witness is excused.

(Witness excused.)

Chairman Devine: The Commission will recess for a period of five minutes, and then call one more witness before the noon recess.

(Short recess.)

Chairman Devine: The Commission will resume order.

Let the record show that the same six members are present who were present before recess.

Counsel will call the next witness.

Mr. Isaacs: Mr. Chairman, I would like to call Eula Ann Cooper.

Eula Ann Cooper being first duly sworn, testified as follows:

By Mr. Isaacs:

Q. Will you state your name, please?

A. Eula Cooper.

Q. Is that E-u-l-a?

A. That is right.

[fol. 183] Q. And, Mrs. Cooper, you are represented here today by the same counsel that has represented the previous witnesses; Mrs. Thelma Furry of Akron, is that correct?

(The witness conferred with counsel.)

A. Yes.

Q. Where do you reside, Mrs. Cooper?

(The witness conferred with counsel.)

A. 626 First Street, Northwest, Massillon, Ohio.
Q. Keep your voice up so we can all hear.
A. 626 First Street, Northwest, Massillon, Ohio.
Q. How long have you lived there?
A. Since September—

(The witness conferred with counsel.)

A. Since September, 1948.
Q. Since September of 1948?
A. Yes.
Q. Where did you reside prior to September of 1948?
A. I decline.

Chairman Devine: You decline what, Mrs. Cooper?
The Witness: I decline to state my previous address prior to 1948.
Chairman Devine: For what reason do you decline?

(The witness conferred with counsel.)

The Witness: I decline to answer that question as to my previous address because of the Federal Constitution; 4, 5, 9.

[fol. 184] By Mr. Isaacs:

Q. Now, is there something about the type of place in which you lived or the city and state in which you lived that, if you were to reveal it to this commission, it might subject you to some state or federal prosecution?

(The witness conferred with counsel.)

A. I decline to answer it for the same reason.
Chairman Devine: Mrs. Cooper, when you say, "Federal Constitution, 4, 5, and 9," do you wish this commission to accept that answer as meaning on the basis of the Fourth and Fifth and Ninth Amendments to the Federal Constitution, or the Fourth, Fifth, and Ninth articles, or just what do you mean? Let's get the record straight.
The Witness: It is the amendments to the Federal Constitution.
Mr. Yoder: Mr. Chairman.

Chairman Devine: Representative Yoder.

Mr. Yoder: Have you ever read those amendments to the United States Constitution?

The Witness: Have I ever read them?

Mr. Yoder: Yes.

The Witness: Some time or other, I read them in my childhood.

Chairman Devine: Counsel may proceed.

By Mr. Isaacs:

[fol. 185] Q. Mrs. Cooper, would you explain to this commission what portion or what phraseology in the Ninth Amendment to the Federal Constitution you are relying on at this time?

(The witness conferred with counsel.)

A. I decline to answer.

Q. In other words, you decline to answer what portion of the Constitution you are relying on for your refusal to answer questions of this commission?

(The witness conferred with counsel.)

A. I believe I have already stated the amendments.

Q. Now, let me make this as simple for you as I can. Let me read to you the wording of the Ninth Amendment of the Constitution, and you point out to us what you think there is in that that gives you the right not to answer questions of this commission. Amendment 9 says, "Enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

That is Amendment 9 of the Constitution in full.

(The witness conferred with counsel.)

Chairman Devine: Will the witness answer the question, please?

The Witness: I have invoked that portion of the Constitution on advice of my attorney, and I have no legal experience, and, therefore, I wish to further—no further discussion of the legal technicalities of this.

[fol. 186] By Mr. Isaacs:

Q. In other words, whether you understand it or not, you are going to stand on the constitutional amendments that you cited?

A. I understand it well enough that you have got me here on—business.

Q. On what business?

(The witness conferred with counsel.)

Mr. Shull: Mr. Chairman, I wish counsel for this witness would explain what the Ninth Amendment has to do with the witness' refusal to answer questions.

Mrs. Furry: I merely wish to state to the Commission at this time that when I have advised my clients to invoke certain amendments of the Constitution, it is because I have certain cases and decisions of the courts that uphold certain points that I am laying the groundwork for if it ever becomes necessary to defend these people in a court of law.

At this time, I do not have my entire brief in development of these points, but I assue you that when I advise them of this, it is because of research I have done on this, and will be prepared to present it in a brief before a court of law.

Mr. Isaacs: Hold that brief, Mrs. Furry; hold that brief.

Mrs. Furry: I will.

[fol. 187] By Mr. Isaacs:

Q. I asked you where you resided, and you invoked the privilege. I would like, Mr. Chairman, that this witness be ordered to answer that question.

Chairman Devine: Mrs. Cooper, you are directed to answer the question as given by counsel, where did you reside prior to September of 1948?

(The witness conferred with counsel.)

A. I decline.

By Mr. Isaacs:

Q. I understand by your statement that you decline, that you refuse to answer that question on the ground previously stated?

A. Yes.

Q. Now, where and when were you born, Mrs. Cooper?

(The witness conferred with counsel.)

A. Luverne, Alabama.

Q. In what year?

A. Eleventh month, ninth year.

Q. And the 20th day, is that correct?

A. That is right.

Q. November 20, 1909. What was your name at the time you were born; what was the name given you on baptism?

(The witness conferred with counsel.)

A. I decline to answer that.

[fol. 188] Q. Now, is this on advice of your attorney that you are refusing to tell the name under which you were born, that that is in some way tending to make you guilty of some state or federal offense?

(The witness conferred with counsel.)

A. I decline.

Mr. Shull: Mr. Chairman, I move that you order this witness to answer that question.

Chairman Devine: Mrs. Cooper, as has been the case with previous witnesses, the question asked you by counsel is for identification. You are, therefore, ordered to answer the question.

The Witness: I further decline.

Chairman Devine: Let the record show that a quorum is present.

By Mr. Isaacs:

Q. Did you ever hear the name Beulah Long?

(The witness conferred with counsel.)

A. I decline.

Q. Now, did anybody ever tell you when you were old enough to go to school that your name was Beulah Long?

A. I decline, gentlemen.

Q. As a matter of fact, you were born under the name of Beulah Long; isn't that correct?

(The witness conferred with counsel.)

[fol. 189] Chairman Devine: Would you answer the question?

The Witness: I decline.

Mr. Isaacs: May we stipulate with witness' counsel that each time the witness says, "I decline," that she refuses to answer on the previously stated grounds?

Mrs. Furry: I think that should be in the record.

By Mr. Isaacs:

Q. How long did you live in the state of Alabama?

(The witness conferred with counsel.)

A. Now, what I can understand, I was brought to the state of Ohio before I was of school age.

Q. You came to Ohio before you were of school age?

A. Yes.

Q. To which city in the state of Ohio did you come?

A. Strasburg, Ohio.

Q. Did you attend school at Strasburg?

A. One year.

Q. One year of public school?

A. Yes.

Q. Did you attend any schools in Alabama?

(The witness conferred with counsel.)

A. I just stated that I was brought to the state of Ohio by my parents before I was—

Q. Before you were of school age, and you attended one year of school in Strasburg. Then I asked if you attended [fol. 190] any schools in Alabama, if you returned to the state of Alabama and attended any schools there?

A. No.

Q. All the schooling that you had was in Strasburg, Ohio; is that correct, all the formal schooling that you had?

(The witness conferred with counsel.)

A. No.

Q. In what other cities did you go to school?

A. Right here in Massillon, Ohio.

Q. And what school was that; what school did you attend in Massillon?

A. Well, I am getting up there in age, gentlemen. I can't remember all the schools, because—

Q. Well, you went to a high school in Massillon?

(The witness conferred with counsel.)

A. (No response.)

Q. What were the—what was the last school you attended in Massillon?

A. Passed from Horace Mann School to Longfellow.

Q. And when did you finally leave Longfellow?

A. I didn't attend at Longfellow.

Q. Then the last school you attended was Horace Mann School?

A. Yes.

Q. When did you leave Horace Mann School?

[fol. 191] A. 1924.

Q. And then when you left Horace Mann School, did you become employed anywhere?

(The witness conferred with counsel.)

A. No.

Q. When was the first time after you finished school that you became regularly employed?

(The witness conferred with counsel.)

A. (No response.)

Q. Do you recall how soon it was after you left school that you started to work? I will withdraw the question.

Possibly we can get your work record from the other direction. Where are you employed now; at the present time?

(The witness conferred with counsel.)

A. (No response.)

Q. Where are you employed at the present time, Mrs. Cooper?

A. Up until last Friday—

Q. Up until last Friday, where were you employed?

A. I was employed as a cook.

Q. A cook for whom?

A. A nursing home.

Q. Where is that home; is that in Massillon, Ohio?

A. Yes.

Q. How long had you been employed as a cook there?

A. Three months.

[fol. 192] Q. And prior to that time, for whom did you work?

(The witness conferred with counsel.)

A. No one in particular; just a day here and there, occasionally.

Q. House work, day work?

A. That is right.

Q. And over how long a period of time did that extend? Did you start that in 1948 when you came into Ohio?

A. No.

Q. Now, when you first came to Ohio, for whom did you work?

A. I didn't work for anybody.

Q. And since you have been in Ohio, the only work, with the exception of the three months that you worked as a cook at this nursing home in Massillon, you have been doing day work?

A. No steady work.

Q. Now, prior to September of 1948, when you said you came to Massillon, for whom were you working?

(The witness conferred with counsel.)

A. No, I was not employed.

Q. You were not employed prior to September of 1948?

A. No.

Q. Did you do day work or house work prior to September of 1948?

(The witness conferred with counsel.)

[fol. 193] A. Day work occasionally.

Q. Where was that?

A. I can't remember all the places that I have done day work, gentlemen.

Q. Well, in what city were you living? In what city did you do day work during that time?

(The witness conferred with counsel.)

A. I decline, gentlemen.

Q. I gather, or at least I am rapidly getting the impression, that you seek to drop some sort of curtain over your activities prior to September of 1948. Is that correct?

(The witness conferred with counsel.)

A. I decline to answer that question.

Q. Now, was there something about your activities prior to September of 1948 that makes you fear to give a truthful answer to the questions concerning that period?

(The witness conferred with counsel.)

A. I refuse to answer.

Q. Were you engaged in some illegal enterprise during that period?

(The witness conferred with counsel.)

A. I refuse to answer.

Q. Were you living in the state of Ohio during that period?

(The witness conferred with counsel.)

A. I decline to answer.

[fol. 194] Q. Well, now, as a matter of fact, you were living in St. Louis, Missouri, during that period, isn't that correct?

A. I decline to answer.

Q. Did you ever live in the city of St. Louis, Missouri?

A. I decline to answer, gentlemen.

Mr. Isaacs: Mr. Chairman, I would like to have a continuing order on this witness to answer these questions.

Chairman Devine: Time and again, you have declined here. You are instructed by the Chair at this time, and in response to all questions asked by counsel, to answer the question.

The Witness: I beg your pardon; state that again.

Chairman Devine: I say that you have continually declined to answer a number of questions here. I want you to understand that this Chair is ordering you to answer questions of counsel. He has asked you if you ever lived in St. Louis, Missouri. Will you answer that question?

The Witness: I regret very much, gentlemen, but I decline to answer the question.

Chairman Devine: We likewise regret it, but you are still directed to answer the question.

The Witness: I regret very much.

By Mr. Isaacs:

Q. What is your husband's name, Mrs. Cooper?

A. I decline to answer that.

[fol. 195] Mr. Isaacs: I request the witness be ordered and directed to answer the question.

Chairman Devine: You are again directed and ordered to answer questions of counsel, Mrs. Cooper.

(The witness conferred with counsel.)

The Witness: I decline to answer.

Chairman Devine: Let the record show that a full quorum is present during this questioning.

By Mr. Isaacs:

Q. Mrs. Cooper, I will ask you if it isn't a fact that prior to September of 1948, when you were shifted to Massillon, Ohio, you were a resident of St. Louis, Missouri?

(The witness conferred with counsel.)

A. I further decline to answer.

Q. I will ask you if it is not a fact that during the period when you lived in St. Louis, Missouri, at one time you lived at 3116 Clark Avenue, St. Louis?

(The witness conferred with counsel.)

A. I further decline, gentlemen.

Q. And at another time, isn't it a fact that you lived at 3021 LaSalle Street, St. Louis, Missouri?

A. I further decline, gentlemen.

Q. And at another period, isn't it a fact that you lived at 213 South Leffingwell Avenue, St. Louis?

A. I further decline, gentlemen.

[fol. 196] Q. Didn't you live at 1021-A California Avenue, in St. Louis?

A. I further decline, gentlemen.

Q. Isn't it also a fact that you resided at 2903-B Delaware Boulevard, St. Louis, Missouri?

A. I further decline.

Q. Isn't it a fact that your refusal to answer concerning your activity in St. Louis is primarily based on the fact that you were an active member of the Communist Party during that period?

A. I further decline, gentlemen.

Q. And isn't it a fact that you refused to state your employment prior to September of 1948 because for the most part, you were working for state officials of the Communist Party in the state of Missouri?

A. I further decline, gentlemen.

Q. Did you ever hear of Ralph Shaw?

A. I decline.

Q. Isn't it a fact that during 1945, Ralph Shaw was the Missouri state organizer for the Communist Party, and at the time you worked for him, he was the chairman of the Communist Party in St. Louis, Missouri?

A. I decline, gentlemen.

Q. Isn't it a fact that you worked for Robert and Irma Manowitz, who was the treasurer of the central city com-
[fol. 197] mittee in St. Louis, Missouri?

A. I decline, gentlemen.

Q. Isn't it a fact that you yourself have been an active member of the Communist Party since 1932?

A. I decline.

Q. Isn't it a fact that, during 1942, you attended the Communist Party Marxist-Leninist classes and were later made the literature director of the Marxist-Leninist class in St. Louis, Missouri?

A. I decline.

Q. Isn't it a fact that on November 8, 1942, you attended a Communist Party celebration commemorating the 25th anniversary of the Soviet Union held in Municipal Auditorium in St. Louis, Missouri?

A. I decline, gentlemen.

Q. I state it as a fact and ask you to affirm or deny the fact that on January 24, 1943, you attended a Communist Party Lenin memorial meeting held in St. Louis, Missouri?

A. I decline, gentlemen.

Q. I will state it as a fact and ask you to affirm or deny the fact that in 1944, you were made the literature director of the South Side section of the Communist Party in St. Louis, Missouri?

A. I decline.

Q. Isn't it a fact that in May of 1945, you were a member [fol. 198] of the Roosevelt Club of the Communist Party in St. Louis, Missouri?

A. I decline.

Q. And isn't it a fact that you acted as a Marxist-Leninist instructor for that club?

A. I decline.

Q. Isn't it a fact on November t, 1945, you attended a closed meeting of the Roosevelt Club of the Communist Party held at 2841 Gravois Street, St. Louis, Missouri?

A. I decline, gentlemen.

Q. Did you ever attend any meetings at 2841 Gravois Avenue, St. Louis?

A. I decline, gentlemen.

Q. I will ask you if it is not a fact that in 1946, you attended various Communist Party meetings and Communist front meetings in St. Louis, Missouri?

A. I decline.

Q. Isn't it a fact that you were a member of the City Central Committee of the Communist Party for St. Louis?

A. I decline.

Q. I state as a fact and ask you to affirm or deny the fact that on January 26, 1947, you attended a Lenin memorial meeting sponsored by the Communist Party which was held in the Communist Party headquarters on North Grand Avenue, St. Louis, Missouri?

[fol. 199] A. I decline.

Q. Now, did you ever run for public office?

A. I decline.

Q. Would you care to state to this commission how a statement whether you ever ran for public office would tend to incriminate you?

A. I decline.

Q. I have before me, and I will show you, a photostatic copy of a Declaration paper dated at St. Louis, Missouri, on February 10, 1947, which says, "I, the undersigned,

Eula Cooper, 1021-A California; occupation, domestic worker; a resident and qualified elector of the Fifth Precinct of the 16th Ward in the city of St. Louis, state of Missouri, do announce myself as a candidate for the office of alderman, 16th Ward, on the Communist Party ticket."

I will ask you if it is not a fact that on the 14th day of February, 1947, at 10:52 a. m., you filed this declaration of intention to run as a Communist Party candidate for alderman of the 16th Ward?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. I will ask you if it is not a fact that on February 10, 1947, the sum of $36 filing fee was collected from you by Irma Lee Manowitz, who designates herself as treasurer of the Communist Party City Central Committee for St. Louis, Missouri?

[fol. 200] A. I decline to answer.

Q. I will ask you if it is not a fact that on April 21, 1948, you filed declaration papers to run for treasurer of the city of St. Louis on the Communist Party ticket, giving your address as 1021-A California, and occupation as domestic worker?

(The witness conferred with counsel.)

A. I decline to answer.

Q. I ask you if it is not a fact that at 3:17 p. m. on April 28, 1948, you filed your declaration of candidacy on this Communist Party ticket?

A. I decline to answer.

Q. I will ask you if it is not a fact that during 1947 and 1948, you regularly held Communist Party meetings in your home at 1021-A California Avenue, St. Louis, Missouri?

A. I decline to answer.

Q. I will ask you if it is not a fact that when you came to Massillon, Ohio, in September of 1948, you came on a transfer from the Communist Party of St. Louis, Missouri, to the Communist Party of Stark County, Ohio?

A. I decline to answer that.

Q. I state it as a fact and ask you to affirm or deny the fact that you had held Communist Party membership cards

for 1944, -45, -46, and -47, before your transfer by the Communist Party of the state of Ohio?

[fol. 201] (The witness conferred with counsel.)

A. I decline to answer.

Q. I will ask you if it is not a fact that since coming to Stark County, Ohio, you have taken an active part in Communist Party affairs here?

(The witness conferred with counsel.)

A. I decline to answer.

Q. I ask you if it is not a fact that during April of 1949 you regularly attended Communist Party meetings at the Croatian Hall at 2543 Winfield Way, Canton, Ohio?

A. I decline to answer.

Q. That is Winfield Way, Northeast, Canton, Ohio.

I will ask you if it is not a fact that in January of 1951, you attended a meeting of the Stark County Communist Party which was held at 2500 Seventh Street Northeast, in Canton?

A. I decline to answer.

Q. I ask you if it is not a fact that on February 4, 1951, you were a principal speaker at the Communist Party birthday celebration for William Z. Foster, held at this same place in Canton?

A. I decline to answer.

Q. I ask you if it is not a fact that during 1952, you were assigned by the Communist Party to become active in the Progressive Party in this county?

[fol. 202] A. I decline to answer.

Q. I ask you if it is not a fact that on September 21, 1952, you attended a Progressive Party meeting at the Croatian Hall and were one of the speakers?

A. I decline to answer.

Q. I ask you if it is not a fact that at that meeting, you spoke against the United States and in favor of the Soviet Union?

A. I decline to answer.

Q. I ask you if it is not a fact that you said at that time that the Soviet Union was the only country in the world that stood for peace?

A. I decline to answer.

Q. I ask you if it is not a fact that you spoke about the low morale of our troops in Korea?

(The witness conferred with counsel.)

A. Would you state the question again?

Q. Certainly. I will ask you if it is not a fact that at this meeting on September 21 at Croatian Hall, that you made a speech in which you spoke about the other things I mentioned, and also the low morale of the troops in Korea?

A. I decline to answer.

Q. I will ask you if it is not a fact that, during the fall of 1952, you regularly attended both Communist Party and Progressive Party meetings?

[fol. 203] A. I decline to answer.

Q. I ask you if it isn't a fact that you are now, as of this moment, an active member of the Communist Party in Stark County, Ohio?

A. I refuse to answer.

Q. Are you married at the present time, Mrs. Cooper?

(The witness conferred with counsel.)

A. That is a matter of privacy, and it is not pertinent to this investigation. I do not wish to answer that at this time.

Q. Now, when you got married, you probably secured a marriage license, did you not?

A. I decline to answer.

Q. On the strong suggestion that you may not, I am not going to push that question any further.

Were you ever married to a man named Herman Person?

(The witness conferred with counsel.)

A. I decline to answer that.

Q. Did you ever have any children, Mrs. Cooper?

(The witness conferred with counsel.)

A. I decline to answer.

Mr. Isaacs: On the basis of Mrs. Cooper's reluctance to discuss her marital status, and acquisition of a marriage

license, and her children, I think I will not pursue that any further, Mr. Chairman, and I have no further questions.

[fol. 204] Chairman Devine: Do any members of the Commission wish to ask questions?

Mr. Shull: Mr. Chairman.

Chairman Devine: Senator Shull.

By Mr. Shull:

Q. Mrs. Cooper, in the event of a shooting war with Russia, on which side would your efforts and your sympathies be?

(The witness conferred with counsel.)

A. Could they use a woman to fight the war?

Chairman Devine: Let us not have frivolous answers. You answer the question; in the event of a shooting war with Russia, would your sympathies lie with the United States or Russia?

(The witness conferred with counsel.)

The Witness: I decline to answer.

Mr. Dell: May I have the former answer read?

(Previous answer read.)

Chairman Devine: Any questions by members of this commission?

Mrs. Cooper, you indicated earlier in your testimony that you had been employed in a nursing home in Massillon up until about the 15th of October. Were you discharged from that home or did you leave voluntarily?

(The witness conferred with counsel.)

The Witness: I was sick.

[fol. 205] Chairman Devine: You were sick?

The Witness: That is right.

Chairman Devine: You were not discharged?

The Witness: I stated that I was sick last Friday, and haven't been back to work.

Chairman Devine: Just so the record is clear.

I have no further questions.

Do you have any questions, Mr. Isaacs?

Mr. Isaacs: No.

Chairman Devine: Do you have any statement you wish to offer to this commission before being excused as a witness?

Mrs. Furry: She has no statement prepared.

Chairman Devine: The witness is excused.

The Commission will recess and reconvene at 2:15 p. m.

(Luncheon recess.)

[fol. 206] AFTERNOON SESSION

Chairman Devine: The Commission will resume hearings. Let the record show that the same members of the Commission who were here this morning are again in attendance this afternoon. Counsel, Mr. Isaacs, will call the first witness of the afternoon.

Mr. Isaacs: I would like to call Rose Mladajan.

Chairman Devine: Mrs. Mladajan, please stand and raise you right hand.

ROSE MLADAJAN being first duly sworn, testified as follows:

By Mr. Isaacs:

Q. Will you state your name, please?

A. Rose Mladajan.

Q. Is that spelled M-l-a-d-a-j-a-n?

A. Yes, sir.

Q. Now, Mrs. Mladajan, you are represented here by Thelma Furry, the same counsel who represented the previous witness today, is that correct?

A. Yes.

Q. Where do you reside, Mrs. Mladajan?

A. Huh?

Q. Where do you live?

A. I live on Winfield Way, 2534 Winfield Way.

[fol. 207] Q. Is that Northeast?

A. Yes.

Q. That is here in Canton, is it not?

A. Yes.

Q. How long have you lived there?

A. Thirty years.

Q. Where and when were you born, Mrs. Mladajan?

A. Well, I can't read and write. I know I am sixty-four years old.

Q. You say you can't read and write?

A. No. I learned to write my name here and there, but that is all I can do.

Q. Now, are you a citizen of the United States?

A. Yes.

Q. How long have you been a citizen of the United States?

A. Twenty-three years, more.

Q. You say more than twenty-three years?

A. I think it is more than twenty-three years.

Q. If I suggested that you became a citizen here in Stark County on March 23, 1927, would that sound about right?

A. I don't know.

Q. At the time you became a citizen of the United States, were you required to demonstrate that you could read and write?

A. I don't know what to say.

Q. When you became a citizen of the United States back [fol. 208] in 1927, did you have to satisfy the court that you could read and write?

A. At that time, nobody asked that.

Q. Nobody asked you if you could read or write?

A. No.

Q. I think you indicated you were sixty-four years old. I don't think I asked you where you were born?

A. I was born in Yugoslavia; what is now Yugoslavia.

Q. Are you married, Mrs. Mladajan?

A. Yes.

Q. What is your husband's name?

A. Joe Mladajan.

Q. Were you married to him before you came to the United States?

A. Yes.

Q. Was he also a native of Yugoslavia?

A. Yes.

Q. Is he also a citizen of the United States at the present time?

A. Yes.

Q. Now, do you work anywhere, do you have any employment?

A. No.

Q. You are a housewife, then?

A. Yes.

Q. Have you ever had any employment outside of your home?

[fol. 209] A. I was working day's work sometimes, in the depression.

Q. Housework, was that?

A. Yes.

Q. But you never worked in a shop or a factory?

A. No.

Q. In Yugoslavia, how far did you go in school there?

A. I never had any school in Yugoslavia; here, or anywhere.

Q. You have never been to any school anywhere?

A. No.

Q. Now, how old were you when you came to the United States?

A. I was about nineteen years old.

Q. About nineteen; now, at that time, were you able to read and write in the language of the country from which you came?

A. No.

Q. You couldn't read or write even then?

A. No.

Q. Now, do you have any other relatives in the United States besides yourself and your husband?

A. No.

Q. No other kin at all?

A. No.

Q. Mr. Mladajan, at the time you became a citizen of the United States, were you a member of the Communist Party?

A. No.

[fol. 210] Q. You were not?

A. No.

Q. That was in 1927, wasn't it, when you acquired citizenship; now, as a matter of fact, it was in 1930 that you became a member of the Communist Party, was it not?

A. I decline to answer. I don't know nothing about it.

Q. What is the basis for your refusal to answer that question, Mrs. Mladajan?

A. Under the Fifth Amendment of the Constitution of the United States.

Q. Now, I understood you to say that you can't read or write. Has someone read those portions of the Constitution to you so that you understand exactly what it is that you are claiming?

A. I don't understand the language very well. That is all I know.

Q. But has your attorney explained to you—I gather you have not been able to read the Constitution of the United States. Has your attorney read you those portions of the Constitution upon which you are supposed to rely today?

A. I don't know what you say.

(The witness conferred with counsel.)

Q. Has your attorney read you those portions of the Constitution on which you are supposed to rely today?

A. My attorney advised me because I can't read and write.

[fol. 211] Q. I will ask you, Mrs. Mladajan, if it isn't a fact that you have been a member of the Communist Party here in Canton since 1930?

A. I decline to answer.

Chairman Devine: Mrs. Mladajan, we will assume from your answer when you say, "I decline to answer," that you are declining on the same grounds that you have given

under the Fifth Amendment, and on advice of counsel; is that correct?

The Witness: I can't tell you. I don't know.

Chairman Devine: I didn't ask you if you could read. I asked you the basis upon which you declined. When questions are directed to you and you give an answer, you say, "I decline to answer;" ordinarily, it is necessary to state why you decline. If you wish to decline to answer certain questions, this commission will assume that you are declining on the same grounds that you have stated here before. Is that correct? You may ask your counsel if that is proper.

(The witness conferred with counsel.)

The Witness: That is the way I want to be in the record, because I can't read or write.

Chairman Devine: The record will show when you say you decline to answer that you are declining on the basis of the Fifth Amendment, which you used a few moments ago.

You may proceed, counsel.

By Mr. Isaacs:

[fol. 212] Q. You said you were not a member of the Communist Party in 1927. Did you become a member of the Communist Party in 1928?

A. I decline to answer.

Q. Now, have you ever been arrested by the police department here in Canton?

A. I decline to answer.

Q. Now, if you were arrested by the Canton Police Department, that would be a matter of public record, would it not?

A. I decline to answer that.

Q. Now, as a matter of fact, on August 15, 1932, you were arrested by the Canton Police Department for interfering with an attempt to break up a Communist Party demonstration on the public square here in Canton, isn't that true?

A. I decline to answer.

Q. Isn't it a fact that you were fined $10 and costs at that time?

A. I decline to answer.

Q. Now, you say that you can't read or write. You are able to sign your name, though, are you not?

A. Yes, I am able to sign my name.

Q. And you were able in 1940 to sign your name to the Communist Party nominating petition, weren't you?

A. I decline to answer.

Q. I ask you if it isn't a fact that during 1940, you [fol. 213] signed the Communist Party nominating petition being circulated to put Earl Browder on the ballot as president of the United States; isn't that correct?

A. I decline to answer on the same ground.

Q. Now, you said that you were not able to read. I hold before you a copy of the Communist Party publication, The Daily Worker, and ask you if you have ever seen a paper similar to this?

A. I did.

Q. Now, are you able to read those words, "Daily Worker", there?

A. No.

Q. Holding the paper in your own hands, are you able to read the large print at the head of the paper?

(The witness conferred with counsel.)

A. I can't.

Q. Can't read that? All right. Then you must have encountered considerable difficulty on May 3, 1942, when at a Communist meeting in Nimicilla Park, you sold copies of the Daily Worker to the crowd. Isn't it a fact that you sold copies of the Daily Worker at a Communist Party meeting at Nimicilla Park in 1942?

A. I decline to answer that.

Q. Isn't it a fact that at that same meeting, you assisted in taking up a collection of funds on behalf of the Communist Party?

[fol. 214] (The witness conferred with counsel.)

A. I decline to answer.

Q. I will ask you if it isn't a fact that during 1943, particularly during the summer of 1943, you attended meetings of the Communist Party held at the Diana Cafe at 1910 Eighth Street, Northeast, in Canton, Ohio? That was during the summer of 1943?

A. I decline to answer.

Q. I will ask you if it is not a fact that on September 12, 1943, you attended a Communist Party sponsored showing of propaganda movies at the Canton Music Hall which were sponsored by the Daily Worker Press Fund Committee?

A. I decline to answer.

Q. I ask you if it is not a fact that on January 12, 1944, you attended a meeting of the Tenth Ward Branch of the Communist Party held at the Diana Cafe in Canton?

(The witness conferred with counsel.)

A. I decline—

Q. That meeting was January 12, 1944, if you are hesitating to get the date in your mind. Were you present at that meeting of the 12th Ward Branch of the Communist Party at the Diana Cafe?

A. I decline to answer. I don't know anything of it. I decline to answer.

Q. Are you stating that you never heard of a meeting of [fol. 215] the Tenth Ward Branch of the Communist Party at the Diana Cafe before?

A. I decline to answer.

Q. Now, do you know of Elizabeth Gurley Flynn?

A. I decline to answer.

Q. As a matter of fact, Elizabeth Gurley Flynn was a national functionary of the Communist Party who was convicted as a Communist Party traitor for advocating the overthrow of the United States government by force and violence, was she not?

A. I decline to answer.

Q. I ask you if it is not a fact that on April 3, 1945, you attended a Communist Party banquet honoring Elizabeth Gurley Flynn held at the Sue Ming Restaurant here in Canton?

A. I decline to answer.

Q. I will ask you if it is not a fact that in 1946, you

signed the nominating petition for the Communist Party leader of Canton, Carl Gulyas, who was running for county commissioner at that time?

A. I decline to answer.

Q. Now, are you a member of the International Workers Order?

A. I decline to answer.

Q. Now, do you know that the International Workers Order has been cited as a subversive and Communist [fol. 216] organization by the Attorney-General of the United States?

A. I decline to answer.

Q. Do you know the International Workers Order has now been ordered disbanded by the Insurance Commissioner of the State of New York?

A. I decline to answer.

Q. Do you know that that ruling was based on the finding that in the event of a time of emergency between the Soviet Union and the United States, that the International Workers Order could be counted on to serve the interests of the Soviet Union as opposed to the United States?

A. I decline to answer.

Q. Did you take any part in the American-Slav Conference?

A. I decline to answer.

Q. I ask you if it is not a fact that in the summer of 1948, you and your husband sent greetings to the Third American Slav Conference which was held out in San Francisco, California, as coming from Lodge 4293 of the International Workers Order here in Canton?

A. I decline to answer.

Q. I will ask you if it is not a fact that during February of 1949, you were a member of the executive committee of the Communist Party for Stark County in Canton?

A. I decline to answer.

Q. Mrs. Mladajan, isn't it a fact that you and your hus- [fol. 217] band were among the charter members of the Communist Party here in Canton?

A. I decline to answer.

Q. I will ask you if it is not a fact that on November 4, 1949, you attended a Communist Party banquet at Croatian

Hall in Canton, which was to honor the charter members of the Communist Party in Canton?

A. I decline to answer.

Q. I will ask you if it is not a fact that you and your husband, Joseph Mladajan, were the only two charter members of the Communist Party that appeared at that banquet?

A. I decline to answer.

Q. I will ask you if it is not a fact that Yetta Land who was a charter member of the Communist Party in Ohio, spoke at that meeting?

(The witness conferred with counsel.)

A. I decline to answer.

Q. I will ask you if it is not a fact that Martin Chancey, who was the state secretary of the Ohio Communist Party, also spoke at that meeting honoring you and your husband?

A. I decline to answer.

Q. I will ask you if the main topic of the speeches at that meeting wasn't the indictment of the twelve Communist leaders who were going to be tried as traitors in New York?

A. I decline to answer.

[fol. 218] Q. Do you know who Gus Hall is?

A. I decline to answer.

Q. As a matter of fact, Gus Hall was formerly head of the Communist Party in the state of Ohio, was he not?

A. I decline to answer.

Q. Gus Hall was convicted as a traitor in New York, wasn't he?

A. I decline to answer.

Q. I ask you if it is not a fact that on December 3, 1949, that you attended a meeting of the Stark County Communist Party at Canton Music Hall to welcome Gus Hall back to Ohio after he was convicted as a traitor?

A. I decline to answer.

Q. Now, would the fact tnat Gus Hall had been convicted as a traitor to this country have any deterrent effect on your going to that meeting?

A. I decline to answer.

Q. I asked you before if you had any other relatives in the United States besides your husband. I believe you told me you did not. Are you acquainted with a man named Arthur Cramer? Does the name "Arthur Cramer" mean anything to you or have any significance to you at all?

A. I never heard of him.

Q. Never heard of him. Now, on May 9, 1950, Arthur Cramer was a member of the Communist Party, secured [fol. 219] a job at Republic Steel in this city, and he listed his address at 2534 Winfield Way, Northeast, Canton. Do you know who resides at 2534 Winfield Way, Northeast, Canton?

A. That is my address.

Q. That is your address. On his application blank, he listed that Rose Mladajan was his aunt, and Joseph Mladajan was his uncle. Was that done with your knowledge and consent?

A. No.

Q. It was not?

A. No. I don't know anything about it. I decline to answer.

Q. I believe you have already testified that when Arthur Cramer, on May 9, 1950, got a job out at Republic Steel and listed his address as your address and listed you and your husband as his aunt and uncle, that was done without your knowledge or consent; is that true?

(The witness conferred with counsel.)

A. I don't know nothing about it.

Q. Has Arthur Cramer ever lived with you at that address?

A. No.

Q. Never has?

A. No.

Q. And Arthur Cramer isn't your nephew?

A. No.

Q. Now, Mrs. Mladajan, isn't it a fact that all during the [fol. 220] year 1950, you held Communist Party meetings in your home at 2534 Winfield Way?

A. No; I decline to answer.

Q. Now, during 1950 and 1951, isn't it a fact that you

regularly attended Communist Party meetings held at the Croatian Hall which is directly across the street from your home on Winfield Way?

(The witness conferred with counsel.)

A. I decline to answer.

Q. Have you ever been inside the Croatian Hall at 2543 Winfield Way, Northeast, Canton?

A. I wouldn't—I am living near there.

Q. You are employed there part time, as a matter of fact, aren't you?

A. Yes.

Q. In addition to your duties as custodian of that hall, have you ever had occasion to attend meetings at that hall, meetings of any kind?

A. I decline to answer. I am cleaning there, and I am there when people coming and going, and that is all I know.

Q. Have you ever attended any meetings of the American Legion there?

A. I don't—

Q. Never have?

A. No.

[fol. 221] Q. Have you ever attended any meetings of the Red Cross there?

A. I decline to answer. I don't know who meets there.

Q. Now, I am not asking about any meetings at which you may not have attended. Have you personally ever attended any meetings of the American Red Cross held at that hall?

A. I decline to answer. I don't know who meets there.

Q. I am asking whether you personally have ever attended such a meeting there, something which is within your own personal knowledge?

(The witness conferred with counsel.)

A. I just decline to answer. I don't know.

Q. Isn't it a fact that, during that time, you were actually attending—not as an employee of the hall, but actually attending—as a regular member, meetings of the Communist Party held at that hall?

A. I decline to answer. I don't remember.

Q. What?

A. I decline to answer. I don't know anything I was ther any meetings.

Q. Then, is it your statement that the only occasions that you were inside the Croatian Hall were on the occasions when you were working there?

A. I decline to answer.

Mr. Isaacs: Mr. Chairman, in view of the fact that the [fol. 222] witness has said she didn't know of any meetings they attended, I request that she be ordered to answer the question whether the only time she had occasion to be in the hall was in connection with employment.

Chairman Devine: Mrs. Mladajan, have you ever been in meetings at the Croatian Hall at any time except in your capacity as an employee?

(The witness conferred with counsel.)

The Witness: I decline to answer.

Chairman Devine: You are directed by the Chair to answer the question.

The Witness: I decline to answer.

Chairman Devine: Let the record show that there is a quorum present at this time.

By Mr. Isaacs:

Q. Mrs. Mladajan, have you ever heard of William Z. Foster?

A. I decline to answer.

Q. As a matter of fact, William Z. Foster was head of the Communist Party in the United States?

A. I decline to answer.

Q. Isn't it a fact that on February 1, 1941, you attended a party honoring the birthday of William Z. Foster?

A. I decline to answer.

Q. Now, are you acquainted with Edna Kaufman; are you acquainted with her?

[fol. 223] A. I decline to answer.

Q. Have you ever heard of Edna Kaufman?

A. I decline to answer.

Q. Now, as a matter of fact, until very recently, Edna Kaufman was head of the Communist Party here in Stark County, was she not?

A. I decline to answer.

Q. I ask you if it is not a fact on May 5, 1952, you and Edna Kaufman went to call on members of the Communist Party in the Columbia Heights section of Massillon in order to raise money for the Communist Party?

A. I decline to answer.

Q. I ask you if it is not a fact that during 1952, you were assigned by the Summit County section of the Communist Party to work in the Progressive Party in Stark County?

A. I decline to answer.

Q. Now, Mrs. Mladajan, according to an article that appeared in the Canton Repository, you were elected the treasurer of the Progressive Party of Stark County, isn't that correct?

A. I decline to answer.

Q. Would you care to explain to this commission how you, who stated under oath that you cannot read and you cannot write, could serve as the treasurer of the Progressive Party for this county?

[fol. 224] A. I decline to answer.

Q. I will ask you further if it is not a fact that Edna Kaufman was the vice president of the Progressive Party for this county?

A. I decline to answer.

Q. I ask you if it is not a fact that on September 21, 1952, you attended a Progressive Party meeting at Croatian Hall, celebrating the birthday of the Progressive Party?

A. I decline to answer.

Q. Now, you stated that you can't read or you can't write. Can you bake; bake cakes?

A. Yes, I could bake cakes.

Q. Isn't it a fact on September 21, 1952, you baked a cake honoring the birthday celebration of the Progressive Party?

A. I decline to answer.

Q. Isn't it a fact that LaVerne Slagle and Eula Cooper were on the program that night as speakers?

A. I decline to answer.

Q. That was a meeting held over there at the Croatian Hall; do you remember being at that meeting?

A. I decline to answer.

Q. Do you remember a night when you baked a cake in your home and carried it across the street to the meeting?

A. I don't remember.

Q. Would that have been in line with your duties as the [fol. 225] custodian of the Croatian Hall?

A. I don't remember.

Q. I will ask you if it is not a fact that on November 2, 1952, that was the date set for a fund-raising raffle for the Progressive Party here; do you recall that?

A. I don't remember, and I am not going to answer.

Q. Are you not going to answer it because you don't remember, or are you not going to answer because you think that would tend to incriminate you?

A. I am declining to answer.

Q. And what is the ground on which you decline to answer that particular question?

A. I don't know what you say.

(The witness conferred with counsel.)

Chairman Devine: Are you declining to answer, Mrs. Mladajan, on the basis of the Fifth Amendment, or that you don't remember?

The Witness: On the basis of the Fifth Amendment.

Chairman Devine: All right.

By Mr. Isaacs:

Q. For that fund-raising raffle, you agreed to furnish cakes which you had baked, isn't that true, Mrs. Mladajan?

A. I decline to answer.

Q. Isn't it a fact, Mrs. Mladajan, that since Edna Kaufman moved out of Stark County, you and your husband, [fol. 226] together with John and Olga Perry, have been exercising the control of the Communist Party in this county until a new organizer could be sent in?

A. I decline to answer.

Q. Isn't it a fact that you are one of the four individuals who are running the Communist Party in this county at the present time?

A. I decline to answer.

Q. Now, are you acquainted with Eva Nemeth?

A. I decline to answer.

Q. Now, you said no, first. Do you mean you are declining to answer, or you are not acquainted with Eva Nemeth?

A. I decline to answer on the previous ground that was stated.

Q. To help you identify her, she lives at 2237—11th Street Northwest, here in Canton. Does that help you recall her?

A. No.

Q. It doesn't?

A. No.

Q. I will tell you that she is the treasurer of the Communist Party in Stark County at the present time; does that help recall her to you?

A. I decline to answer.

Q. As a matter of fact, you are currently paying your Communist Party dues to her; isn't that correct?

[fol. 227] A. I decline to answer.

Q. Now, Mrs. Mladajan, have you ever voted here in Stark County?

A. Yes, I voted ever since I have been a citizen.

Q. Were you able to sign your name on those voting cards?

A. I learned how to write my name.

Q. That is all you have learned how to write?

A. That is all; that is all I could write.

Q. And you can't read at all?

A. Oh, maybe I could, here and there, but I don't—I can't read.

Q. You say you could read?

A. Oh, maybe I could point one letter here or there, but I can't read.

Q. But you couldn't read?

A. No.

Q. Are you a subscriber to the Daily Worker?

A. I decline to answer.

Q. As a matter of fact, you are a subscriber to the Daily Worker, are you not?

A. I decline to answer.

Q. Now, does somebody read the Daily Worker to you?

A. No.

Q. Is your husband able to read and to write?

A. No, he can't read at all.

[fol. 228] Q. He can't read at all?

A. No.

Q. Can he write his name?

A. Yes.

Q. Now, was he able to sign his name in order to vote?

A. He voted, I suppose he is.

Q. Was he able to sign his name in order to become a citizen?

A. Yes.

Q. Does someone read the Daily Worker to you and to him?

A. No.

Q. How do you acquire the news from Unkept and Free Press?

A. I decline to answer.

Q. Mrs. Mladajan, I ask you if it is not a fact that you are now, as of this moment, an active member of the Communist Party here in Canton?

A. I decline to answer on the previous ground.

Q. Mrs. Mladajan, back in 1927, when you acquired citizenship, you took an oath of allegiance to this country. Don't you feel that your long duration of membership in the Communist Party is inconsistent with the oath which you took at that time?

A. I don't know what you say.

(The witness conferred with counsel.)

A. I decline to answer.

[fol. 229] Q. Now, do you understand the question that I asked?

A. She explained to me.

Q. What did she explain; what did my question mean?

A. She says that you want to know if when I took the the allegiance, was I a Communist; did that mean anything to me.

Q. Now, did the oath which you took in 1927 mean anything to you?

A. Sure, it means.

Q. Did you sincerely at that time believe you were going to uphold and defend the Constitution of the United States?

A. I do.

Q. How does it happen that within a matter of a very few years, you became active in the Communist Party here?

A. I decline to answer.

Q. Do you get enough of the news through the daily paper, either the Free Press or the Kept Press, or otherwise, to know what is going on in the world today?

A. I don't read very much.

Q. Do you know anything about the political situation between the United States and the Soviet Union?

A. I decline to answer that question.

Q. What I am trying to get at, Mrs. Mladajan, is: What is there about the Communist Party that has attracted you to be a member for the past twelve or thirteen years?

A. I decline to answer.

[fol. 230] Q. Is it that you feel that you may be of some service to the Soviet Union here in time of war?

A. I decline to answer.

Q. Do you regard yourself as a loyal and patriotic citizen of the United States?

A. Yes, I do.

Q. Now, do you regard the Communist Party as a subversive and disloyal organization?

A. I decline to answer.

Q. Do you feel that your status as a loyal citizen goes right along with what the Communist Party actually is?

A. I decline to answer.

Q. Do you know what the Communist Party is, Mrs. Mladajan?

A. I decline to answer. I told you I can't read and write, and I decline to answer.

Q. Then you are not familiar with any of the decisions

of the Supreme Court or other courts in this country that have designated the Communist Party as a foreign-dominated conspiracy that advocates the overthrow of this government by force and violence?

A. I decline to answer.

Q. I just wonder if you know the nature and character of the organization to which you belong?

A. I decline to answer.

Q. Who tells you about these things, since you cannot [fol. 231] read and you cannot write?

A. I decline to answer.

Mr. Isaacs: That is all.

Chairman Devine: Do any members of the Commission wish to inquire of this witness?

Mr. Shull: Mr. Chairman.

Chairman Devine: Senator Shull.

By Mr. Shull:

Q. Mrs. Mladajan, in the event of an all-out war between the Soviet Union and the United States, on which side would your sympathies and efforts be?

A. I don't prefer—I don't agree with the war, but I would say with the United States; it doesn't matter who attacks our county.

Q. Can you be a member of the Communist Party and still do that?

A. This is my country, and we come here to make a living, and I am standing for my country. It doesn't matter whoever would attack my country.

Q. Are you or are you not right today a member of the Communist Party?

A. I am not answering.

Mr. Shull: That is all, Mr. Chairman.

Chairman Devine: Any further questions?

Mr. Yoder: Mr. Chairman.

[fol. 232] Chairman Devine: Representative Yoder.

By Mr. Yoder:

Q. In your refusing to answer because you are afraid of incriminating yourself with the United States government. are you refusing to answer and using the First and Fifth Amendment to keep from incriminating yourself with the Communist Party? Which are you basing your reason for not answering?

(The witness conferred with counsel.)

A. I decline to answer that question.

Chairman Devine: Are there any further questions by members of the Commission?

Mrs. Mladajan, do you have any statement you wish to make to this commission before you are excused?

The Witness: I don't have nothing to say.

Chairman Devine: You may be excused.

(Witness excused.)

Chairman Devine: The Commission will recess for about ten minutes.

(Short recess.)

Chairman Devine: The Commission will resume. The record will show that the six Commission members are present.

Counsel will call the next witness.

Mr. Isaacs: Mr. Chairman, I would like to call Mr. LaVerne Slagle.

[fol. 233] Chairman Devine: Do you wish to make your motion prior to swearing the witness?

Mr. Pollitt: I do.

Mr. Isaacs: Will counsel identify himself?

Mr. Pollitt: My name is Basil Pollitt.

Chairman Devine: You are a member of what bar?

Mr. Pollitt: Member of the Bar of the State of New York. I am an associate of Mr. David Scribner, who has appeared before this committee at another time.

Mr. Isaacs: I think the record will show that Mr. Scribner appeared only as counsel for some of the witnesses, never as a witness himself.

Mr. Pollitt: That is correct. I represent Mr. Slagle here today who has been served with a subpoena. I wish to address two motions to this subpoena. The first motion is based on the First and Fourteenth Amendments to the Federal Constitution. These amendments prohibit any state from restricting freedom of speech and assembly. The legislation establishing this commission makes it clear that the commission is conceived as one whose activities would violate this restriction, and this hearing today violates that restriction.

The activities of this commission consist of an inquisition into the beliefs and associations of persons summoned before it. By this process, those who disagree with the Commission are blacklisted and their example used to [fol. 234] intimidate others. This is the same McCarthyism which in the past few years has been used to intimidate and terrorize teachers, clergy, and all Americans.

Such an inquisition has no place in America under our Constitution.

Mr. Isaacs: Mr. Chairman, I would interrupt to suggest that it was my understanding that counsel was to present a motion. This is simply a political harangue such as we get from the witness, and we certainly need not have one from counsel for one of the witnesses.

Mr. Pollitt: I submit, Mr. Chairman, that I am now stating the ground for the motion, and I am about to cite two cases.

Chairman Devine: You have not indicated thus far, Mr. Pollitt, what the nature of your motion is. You say it is a motion?

Mr. Pollitt: Two motions, addressed to the subpoena.

Chairman Devine: What is the motion?

Mr. Pollitt: My first motion is that this committee withdraw the subpoena addressed to Mr. Slagle, pending the determination in the Supreme Court of the case now pending thereon certiorari the case of Ames Beck vs. the United States, and I would like to tell you something about that case and the issues there involved, if I might.

Chairman Devine: We are not concerned with that par- [fol. 235] ticular case today.

Mr. Pollitt: That case is concerned with this commission, your Honor.

Chairman Devine: That might very well be; however, as you probably know, and as Mr. Scribner, your associate, knows, as a result of having appeared before this commission, we are not sitting in a judicial capacity. We have no judicial powers. We, therefore, are not in a position to rule upon any motion you may present here.

Mr. Pollitt: Well, I don't want to get into prolonged arguments on this. I do wish to point out that every gentleman at the table is sworn to uphold the Constitution, and has a duty, having taken that oath, to try to understand the Constitution as it applies to the actions of this commission, and to follow it, and that applies not only to judges, but to members of the Legislature, and I think it is incumbent upon you to hear my argument.

However, if the Commission doesn't want to hear argument addressed to this question, that is the Commission's privilege.

Mr. Shull: Mr. Chairman.

Chairman Devine: Senator Shull.

Mr. Shull: Are you familiar with the decisions of the Common Pleas Court of Hamilton County and Franklin County sustaining the authority of this commission?

[fol. 236] A. I was not aware of such a decision in Hamilton County. However, I thought the question was going to be presented on October 27.

I am aware of the decision in Franklin County. I have read the decision. I have been advised by a number of Ohio attorneys that the decision is incorrect and, frankly, I had —my second motion was going to be addressed to the problem raised by that decision.

I will say, first of all, that the decision of that court does not apply at all to the grounds I am now stating. It does not apply at all to the grounds involving the First Amendment to the Constitution.

Mr. Isaacs: Mr. Pollitt, do I understand you to interpret the First Amendment of the Constitution to say that no state—

Mr. Pollitt: The First and Fourteenth Amendments.

Mr. Isaacs: As a matter of fact, the First Amendment has no application to that at all.

Mr. Pollitt: Well, the Fourteenth Amendment applies, it guarantees liberty in the First Amendment, as restrictions on the states.

Chairman Devine: As I have indicated to you, Mr. Pollitt, we do not sit in a judicial capacity; we are not in position to rule on your motion. However, your motion and any argument you submit is a part of the official record of [fol. 237] this commission, and will be so ordered.

Do you wish to direct your second motion to the Chair?

Mr. Pollitt: I haven't finished my first motion.

Chairman Devine: If you intend to go into the substance of the case that you were citing, of course, that is not within our province because, as I say, we will not rule upon the motion today.

Mr. Pollitt: Tell me it is useless to take up your time; therefore, it is useless for me to take up my time; I won't disturb you gentlemen by so doing.

Chairman Devine: Do you wish to proceed?

Mr. Pollitt: You can proceed.

Chairman Devine: All right. Please raise your right hand, Mr. Slagle.

LAVERNE SLAGLE being first duly sworn, testified as follows:

Mr. Pollitt: Mr. Chairman, might I ask that no flash bulbs be shot in my face during the hearing?

Chairman Devine: Yes. We will ask the press and other persons that have cameras here that if they wish to take pictures, they do so before questioning is commenced; please do not take any pictures during the questioning of the witness, that is, and if it is the wish of the witness following the hearing, it may be done so following his testimony.

Counsel will proceed.

[fol. 238] By Mr. Isaacs:

Q. Will you state your name, please?

A. LaVerne Slagle.

Q. Where do you reside, Mr. Slagle?

A. 321 Commonwealth Avenue, Northeast, Massillon, Ohio.

Q. How long have you lived there?

A. Approximately three and a half years.

Q. Prior to that time, going back, let us say, five or six more years, where have you lived?

A. I couldn't remember all of the addresses offhand. I lived in Zanesville for a couple of years prior to that.

Before that, I was in Warren, North Canton, Youngstown, Ashtabula, Cleveland.

Q. How long have you been a resident of the state of Ohio?

A. Since I was born.

Q. What was that date?

A. March 6, 1918.

Q. Where were you born?

A. Crawford County, Ohio.

Q. Is that near Bucyrus?

A. Yes.

Q. Near Bucyrus, Ohio?

A. Yes.

Q. What is you—in a general way, what is your educational background; what formal schools have you attended?

[fol. 239] A. I attended the elementary and high school in my county and township, rural township schools. Following that, I attended Ohio State University and graduated there.

Q. What was the year of that graduation?

A. I graduated in 1939, but took some postgraduate work.

Q. What was the last degree that you got?

A. Well, it was—just a bachelor's degree.

Q. Bachelor of arts?

A. I believe it was bachelor of science in public administration. I am not too sure of that.

Q. And what is your employment at the present time?

Mr. Pollitt: May I ask the pertinence of that question, Mr. Chairman?

Chairman Devine: The pertinence is purely from a background standpoint, Mr. Pollitt? I think it is a proper question.

Mr. Pollitt: I submit, Mr. Chairman, that the only purpose of that question since the witness has identified himself thoroughly is to threaten the witness' job, and therefore request that the question be withdrawn.

Chairman Devine: The question appears to the Chair to be a proper question and the witness is instructed to answer.

A. Reliable Heating Company.

By Mr. Isaacs:

[fol. 240] Q. Reliable Heating Company?

A. Yes.

Mr. Isaacs: Mr. Chairman, before I ask any questions, I would like to have it pointed out to counsel who, as an associate of Mr. Scribner, is thoroughly familiar with the role of counsel in a commission hearing of this sort; he is free to consult with the witness any time the witness requests his consultation, but until he is asked for information or asked by the Commission itself, he is to confine his conversation to the witness he represents.

Chairman Devine: Is there any question in your mind on proper procedure, Mr. Pollitt?

Mr. Pollitt: If the procedure outlined by Mr. Isaacs is the proper procedure of the Commission—

Chairman Devine: That is the procedure adopted by this commission.

Mr. Pollitt: —I will follow it, although it seems to hurt the right of representation.

Chairman Devine: This has also been the policy to instruct counsel in cases of this nature that the witness is entitled to counsel. There is no question about that, and counsel is entitled to give him advice as to his rights. However, counsel is not permitted to put words in a witness' mouth.

You may proceed, Mr. Isaacs.

[fol. 241] By Mr. Isaacs:

Q. Prior to your employment with the Reliable Heating Company, by whom were you employed?

A. Massillon Kirby Company.

Q. What were the approximate dates of your employment with the Massillon Kirby Company?

A. From about November of 1952 to March, 1953.

I might say that the Kirby Company—the Massillon Kirby Company might be slightly misleading. It wasn't all the time known as the Massillon Kirby Company, but the Kirby Company.

Q. Is that the vacuum cleaner company?

A. Yes, sir.

Q. Prior to your employment by Massillon Kirby, by whom were you employed?

A. United Electrical Workers of America, U. E.

Q. In what capacity were you employed by U. E.?

A. As a field organizer.

Q. What part of the state of Ohio did you cover?

A. It varied. At times I covered one part, times, another part.

Q. Did your work take you all over the state, or was there any particular geographical location to which your operations were confined?

A. Well, various times, it was usually pretty much con- [fol. 242] fined to a certain area, but I moved from area to area occasionally.

Q. Now, did you cover all of District 7 of the U. E., or just the state of Ohio?

A. Just the state of Ohio; not all of the state of Ohio.

Q. Now, what were the approximate dates of your employment with the U. E.?

A. Pardon?

Q. With the U. E.

A. I believe it was February of 1947 until October of 1952.

Q. Prior to the U. E., by whom were you employed?

A. Immediately preceding?

Q. Yes.

A. United Public Workers of America.

Q. And in what capacity with them?

A. As a field representative.

Q. What were the approximate dates of your employment by the United Office and Professional Workers?

A. You have that name incorrect.

Q. United Public Workers; I beg your pardon.

A. From, I believe it was November 1946, until the end of January, 1947.

Q. And prior to that employment, by whom were you employed?

A. Jeffrey Manufacturing Company.

Q. And they are located where?

[fol. 243] A. Columbus, Ohio.

Q. Columbus, Ohio?

A. Yes.

Q. What were the approximate dates of that employment?

A. 1943, around October, until the time that I became an organizer or field representative for the United Public Workers.

Q. That was in the latter part of 1946?

A. Yes.

Q. So, for the past ten years, that in a general way has been your general employment background?

A. Yes.

Q. Now, during any of that period, Mr. Slagle, were you a member of the Communist Party?

(The witness conferred with counsel.)

A. I refuse to answer the question on the grounds that the activities of this committee and this question in particular are in violation of the First and Fourteenth Amendments to the Constitution of the United States, which guarantee to me freedom of speech and assembly and which no agency of the government, including this committee, has any power to overrule. I also refuse to answer because this committee is acting in violation of the Ohio Constitution, and is usurping judicial and executive powers.

I am also asserting my right guaranteed to me by the [fol. 244] Fifth Amendment to the Constitution of the United States, and Article I, Section 10, of the Constitution of the State of Ohio, not to be a witness against myself.

Q. I take it, then, you are refusing to answer whether you have ever been a member of the Communist Party?

A. That is my answer.

Q. Mr. Slagle, in order to conserve your time and the Commission's time, if you see fit in the future to decline to answer questions and you cite the same reason, we will assume it is the same reason you have given before this Commission; is that right?

A. Yes, sir; I will say the same answer.

Chairman Devine: Proceed, counsel.

By Mr. Isaacs:

Q. Mr. Slagle, isn't it a fact that while you were still on the campus of Ohio State University at Columbus, Ohio, prior to 1939, you became active in the affairs of the Communist Party down in Franklin County?

A. The same answer.

Q. Isn't it a fact that while you were still on campus in 1939, you were the chairman of the Communist-dominated Peace Mobilization Committee on the Ohio State campus?

(The witness conferred with counsel.)

A. Same answer.

Q. Isn't it a fact that during your stay on the Ohio State [fol. 245] University campus, your pro-Communist activities caused you to be investigated by a special committee of the Board of Trustees of Ohio State University?

(The witness conferred with counsel.)

A. Same answer.

Q. Isn't it a fact that on the 17th of March of 1939, you were called to testify before such a board inquiring into your Communist Party activity?

(The witness conferred with counsel.)

A. The same answer.

Q. Isn't it a fact that on April 22, 1939, you made an appeal through the pages of the Ohio State University Lantern to support the annual peace strike which was going to be conducted on the campus by the Communist front organization known as Emergency Peace Mobilization Committee?

(The witness conferred with counsel.)

A. The same answer, but in giving the same answer, I don't wish to permit the committee to draw the conclusion that the phrasing of the question has any sense of the truth in it.

Mr. Shull: He could answer the question, then, Mr. Chairman.

By Mr. Isaacs:

Q. If I understand that answer, Mr. Slagle, you are, in effect, denying the truth of that question; is that a fact?

A. I am just not vouching for any statement of what you call fact.

[fol. 246] Q. I will state it as a fact and ask you to affirm or deny the fact that on April 22, 1939, you made an appeal through the pages of the Ohio State University Lantern to support the annual peace strike to be conducted on the Ohio State University campus by the Communist front organization known as the Emergency Peace Mobilization Committee?

(The witness conferred with counsel.)

A. The same answer.

Q. I ask you if it is not a fact that during 1939 and 1940, you were associated with the North Side Branch of the Communist Party of Franklin County?

A. The same answer.

Q. And during that same period, you also had association with the professional branch of the Communist Party in Franklin County?

A. The same answer.

Q. During the same period, isn't it a fact that you were active in the Young Communist League?

A. The same answer.

Q. Isn't it a fact that you were active in an organization that the Communist Party set up known as the North Side Peace League?

A. Same answer.

Q. I state it as a fact and ask you to affirm or deny the fact that in 1940, you circulated a Communist Party nomi-

[fol. 247] nating petition in Franklin County?

A. The same answer.

Q. I will ask you if it is not a fact that your name appears on that Communist Party petition as a signer?

A. The same answer.

Q. I will ask you if it is not a fact that during 1940, you attended a meeting of the North Side Peace League which was specifically called by the Communist Party?

A. Same answer.

Q. I will ask you if it is not a fact that on May 5, 1941, you attended a meeting of an organization identified with the Communist front, American Peace Mobilization, which met at the Negro Masonic Temple in Columbus, Ohio?

(The witness conferred with counsel.)

A. The same answer.

Q. I will ask you if it is not a fact that during 1941, you regularly held Communist Party meetings in your home at 105 West Lane Avenue, Columbus?

A. The same answer.

Q. Did you ever live at 105 West Lane Avenue, Columbus?

(The witness conferred with counsel.)

A. I believe that is the address.

Q. I will ask you if it is not a fact that on May 23, 1942, you attended a Communist Party meeting at the Hungarian Workmen's Home at 11123 Buckeye Road, Cleveland, Ohio?

[fol. 248] A. Same answer.

Q. I will ask you if it is not a fact on July 10, 1942, you represented the Franklin County section of the Communist Party at a state executive committee meeting of the Communist Party in Cleveland, Ohio?

A. Same answer.

Q. I will ask you if it is not a fact that during 1942, you regularly attended meetings of the Communist Party at 458 West Poplar in Columbus, Ohio?

A. Same answer.

Q. Are you acquainted with Benjamin Davis?

(The witness conferred with counsel.)

A. Same answer.

Q. As a matter of fact, you know that Benjamin Davis was a Communist Party leader in the state of New York who has been convicted of advocating the violent overthrow of the government of the United States?

A. Same answer.

Q. I ask you if it is not a fact on November 11, 1942, you held a conference with Benjamin Davis at 458 West Poplar in Columbus, Ohio?

A. Same answer.

Q. I will ask you if it is a fact that during 1942, you were the financial secretary of the Franklin County section of the Communist Party?

[fol. 249] A. Same answer.

Q. And during December of 1942, isn't it a fact that you were made a member of the executive committee of the Franklin County section of the Communist Party?

A. Same answer.

Q. Isn't it a fact that in January of 1943, you became the full-time organizer for the Communist Party in Franklin County?

A. Same answer.

Q. And then, in February of 1943, do you recall anything unusual that happened to you at that time?

(The witness conferred with counsel.)

A. If I am not mistaken, that is the date I went—that is the month I went in the United States Army.

Q. Correct. Do you recall how long you served in the United States Army?

A. Until about August of that year.

Q. Then, were you discharged then?

A. Yes, for medical reasons.

Q. Then, you returned to Columbus following your discharge in August of 1943?

A. Yes.

Q. Isn't it a fact that immediately upon your return to Columbus, you were selected as the organizer of the Mt. Vernon Club of the Communist Party in Columbus, Ohio?

[fol. 250] A. The same answer.

Q. Now, during part of that time, you served as an air raid warden in Columbus, is that correct?

(The witness conferred with counsel.)

A. I believe so.

Q. Do you still have any association or any affiliation with the Civilian Defense Corps?

(The witness conferred with counsel.)

A. No.

Q. I will ask you if it is not a fact that on September 16, 1943, that you attended the first session of the State Conference of the Communist Party which was held in Cleveland, Ohio?

A. The same answer.

Q. I will ask you if it is not a fact that you were a delegate to that convention from Franklin County?

A. The same answer.

Q. I will ask you if it is not a fact that you made the report for the Franklin County section of the Communist Party at that convention?

A. The same answer.

Q. I will ask you if it is not a fact that during 1943 and 1944, you regularly attended Communist Party meetings which were held in Columbus, Ohio?

A. The same answer.

[fol. 251] Q. I will ask you if it is not a fact that in March of 1944, you were elected organizational secretary of the Franklin County section of the Communist Party?

A. The same answer.

Q. I will ask you if it is not a fact that on April 30, 1944, you were a delegate to the first session of the Ohio Communist Party Convention?

A. The same answer.

Q. I will ask you if it it not a fact that on May 21, 1944, you became a member of the Central Committee of the Franklin County section of the Communist Party?

A. The same answer.

Q. I will ask you if it is not a fact that in June of 1944, you were elected temporary secretary of the Columbus Communist Political Association, which had superseded the Communist Party for that brief period?

A. Same answer.

Q. I will ask you if it is not a fact that on June 17 and 18 of 1944, you were a delegate to the second session of the Ohio State Communist Party Convention which was held in Public Hall at Cleveland, Ohio?

A. The same answer.

Q. I will ask you if it is not a fact that in July of 1944, you were elected secretary of the Communist Party Political Association?

[fol. 252] A. Same answer.

Q. At the same time, weren't you made a member of the executive committee of the Communist Political Association of Franklin County?

A. Same answer.

Q. I will state it as a fact and ask you to affirm or deny the fact, that on November 25 and 26, 1944, you attended both sessions of the Communist conference held at Carnegie Hall in Cleveland, Ohio?

A. Same answer.

Q. I will state as a fact and ask you to affirm or deny the fact, that in February of 1945, you were elected president of the Franklin County Communist Political Association?

A. Same answer.

Q. I will ask you if it is not a fact that on July 21 and 22 of 1945, you attended the first session of the Ohio State Communist Party Convention at Hungarian Hall on Buckeye Road in Cleveland, Ohio?

A. The same answer.

Q. I will ask you if it is not a fact that on August 11 and 12 of 1945, you attended the second session of the Ohio State Communist Party Convention held in the same hall in Cleveland, Ohio?

A. The same answer.

Q. I will ask you if it is not a fact that at that conven-[fol. 253] tion, you were elected to be a member of the State Committee of the Communist Party?

A. The same answer.

Q. Isn't it a fact that in May of 1946, you were selected by the state secretary of the Communist Party, Martin Chancey, to reorganize the North End Club of the Communist Party in Franklin County, Ohio?

A. The same answer.

Q. Now, did you ever admit to any employee of the Jeffrey Manufacturing Company that you were a member of the Communist Party?

A. The same answer.

Q. I will ask you if it is not a fact that you admitted to Byron Jacobs, safety director of personnel at the Jeffrey Manufacturing Company, that you were at that time a member of the Communist Party?

(The witness conferred with counsel.)

A. The same answer.

Q. Now, isn't it a fact that in 1946, you were the head of the Communist Party in Franklin County, Columbus, Ohio?

A. Same answer.

Q. Isn't it a fact that you were brought before the Communist Party controlled board in Cleveland on a complaint by a Negro member of the Communist Party, one David Jackson, that you had shown an improper attitude toward [fol. 254] the Negro members of the Communist Party of Franklin County?

A. The same answer.

Q. Isn't it a fact that you were brought up on charges of white chauvanism before the Party control board in Cleveland?

A. Same answer.

Q. Isn't it a fact that you were removed from your position as head of the Communist Party upon being found guilty of those charges?

A. Same answer.

Q. Isn't it a fact that you were placed on probation pending your proof that you had corrected your attitude toward the Negro comrades of Franklin County?

A. Same answer.

Q. Now, do you recall when you left Columbus, Ohio?

A. I think I have already stated the approximate date.

Q. I think you said in the latter part of 1946, you ceased your employment with the Jeffrey Manufacturing Company?

A. That is right.

Q. Did you leave Columbus soon after that?
A. I did.
Q. Where did you go?

(The witness conferred with counsel.)

A. Why, I was immediately—I immediately went to Pittsburgh for two weeks as a representative of the United [fol. 255] Public Workers, where the district office of the United Public Workers was located.

After two weeks there, I went to Akron, Ohio.

Q. And how soon after that did you go to Cleveland, Ohio?

(The witness conferred with counsel.)

A. I moved there the end of January, 1947.

Q. And in what section of the city of Cleveland did you live?

A. I am not sure; offhand, southeast section, somewhere.

Q. I will ask you if it is not a fact that by May of 1947, you had become a member of the General Electorate Club of the Collinwood section of the Communist Party in Cleveland, Ohio?

A. The same answer.

Q. Isn't it a fact that you were subsequently elected to the Collinwood section of the Communist Party in Cleveland, Ohio?

A. The same answer.

Q. I will ask if it is not a fact that you signed a statement which appeared in the "Worder" for May 25, 1947, warning that the House Un-American Activities Committee was spearheading a drive of big business against labor in the name of hunting Communists?

(The witness conferred with counsel.)

A. The same answer.

[fol. 256] Q. Do you know Gus Hall?

A. The same answer.

Q. Is he a Communist?

A. The same answer.

Q. As a matter of fact, Gus Hall was the head of the Communist Party in the state of Ohio, was he not?

A. Same answer.

Q. Subsequently was convicted as a traitor in the first Foley Square trial for conspiring to advocate the overthrow of the United States government by force and violence?

(The witness conferred with counsel.)

A. The same answer.

Q. I will ask you if it is not a fact that on July 1, 1947, you held a conference with Gus Hall at the Hungarian Hall on Buckeye Road in Cleveland, Ohio?

A. The same answer.

Q. I will ask you if it is not a fact that on October 10, 1947, you were a delegate to the first session of the State Communist Party Convention at Hungarian Hall on Buckeye Road?

A. The same answer.

Q. I will ask you if it is not a fact that Gus Hall presided at that Communist Party convention?

A. The same answer.

Q. I will ask you if it is not a fact that on the 11th of October, 1947, you attended a secret meeting at the Hotel [fol. 257] Carter in Cleveland, which was called for all U. E. organizers who were also delegates to the State Communist Party convention?

A. The same answer.

Q. I will ask you if it is not a fact that in addition to yourself, there were also in attendance Joe Kres, Fred Keller, Herbert Hirschberg, Mary Reed, Ruth Epstein, Pearl Hupman, and Hy Lumer?

A. Same answer.

Q. I will ask you if it is not a fact that Hy Lumer told the U. E. organizers who were delegates to the Communist Party convention that the U. E. organizers had to contribute regularly each month to the Communist Party or be kicked out of the U. E. union?

(The witness conferred with counsel.)

A. Same answer.

Q. I will ask you if it is not a fact that Joe Brandt, who was labor secretary of the Communist Party in the state of Ohio, and recently indicted for violation of the Federal

Smith Act, also talked to the U. E. organizers of that Communist Party meeting?

A. Same answer.

Q. I will ask you if it is not a fact that on that same date, October 11, 1947, you attended as a delegate the second session of the State Communist Party Convention, which [fol. 258] was held at the Ukranian Labor Temple on Auburn Avenue, Cleveland?

A. The same answer.

Q. I will ask you if it is not a fact that Martin Chancey, Pearl Hupman, Joe Brandt, Mary Reed, and Phil Parr, all spoke on the convention floor?

A. Same answer.

Q. Now, you know who John Williamson is?

A. Same answer.

Q. As a matter of fact, John Williamson was also one of the Ohio Communist Party functionaries who has been convicted as a traitor to the United States, isn't that true?

A. Same answer.

Q. Isn't it a fact that on March 1, 1948, you signed a message addressed to President Truman demanding the immediate release of John Williamson from Ellis Island, and signed that: "L. B. Slagle, Organizer, C. I. O. Electrical Workers"?

A. The same answer.

Q. Isn't it a fact that on July 10, 1948, you were reinstated to the State Committee of the Communist Party after having performed properly certain control tasks which were given to you at the time you were put on probation in 1946?

A. Same answer.

Q. I will ask you if it is not a fact that on July 12, 1948, you were arrested by the North Canton Police in connection [fol. 259] with violence on the picket line at the Hoover Vacuum plant at North Canton, Ohio?

(The witness conferred with counsel.)

A. The fact is not stated correctly.

Q. Would you care to state the fact correctly, Mr. Slagle?

A. I was arrested, but there was no violence, and I was released and charges were dropped.

Q. As a matter of fact, you were arrested twice on two consecutive days by the North Canton Police Department; isn't that correct?

A. That is correct.

Q. You state there was no violence; the actual charge placed against you was molesting, was it not?

A. I don't believe so. I think it was some North Canton statute called oral assault.

Q. You were also charged with resisting arrest, were you not?

A. I may have been; I am not certain. It was dropped, in any case.

Q. I will ask you if it is not a fact that on November 19, 1950, you attended a joint United Electrical and Communist Party meeting at 3301 East 139th Street, Cleveland, Ohio?

A. Same answer.

Q. Now, during the time that you were a field organizer for the United Electrical Workers, the U. E. was kicked out [fol. 260] of the C. I. O. as a Communist-dominated union, is that not true?

(The witness conferred with counsel.)

A. My understanding is that the U. E. withdrew from the C. I. O.

Q. Well, come; even the Daily Worker has never claimed the U. E. was anything but expelled from the C. I. O.

(The witness conferred with counsel.)

A. I believe the convention minutes of the U. E. will show it.

Q. Now, Mr. Slagle, in your connection with the United Electrical Workers, have you ever met one, even one, member of the U. E. staff that was not also a member of the Communist Party?

A. Same answer.

Q. Are you acquainted with William Cummings?

(The witness conferred with counsel.)

A. The same answer.

Q. Now, in testimony on April 30, 1951, given before this commission, William Cummings identified you as a member of the Communist Party. Were you a member of the Communist Party?

A. The same answer.

Q. Are you acquainted with John Janowitz?

A. Same answer.

[fol. 261] Q. Now, on March 17, 1952, in sworn testimony, John Janowitz identified you as a member of the Communist Party and said you were active in Cleveland, Conneaut, and Ashtabula. Were you active in those areas as a member of the Communist Party?

A. The same answer.

Q. Are you acquainted with John and Martha Edmiston?

A. Same answer.

Q. On March 31, 1952, John and Martha Edmiston in sworn testimony identified you as a member of the Communist Party. Were you a member of the Communist Party?

A. The same answer.

Q. Do you know John DeLong?

A. Same answer.

Q. Also, on March 31, 1952, John DeLong identified you as a member of the Communist Party who was active in the Columbus, Ohio, area. Were you a member of the Communist Party active in the Columbus, Ohio, area?

A. Same answer.

Q. I would like to call your attention to the date of April 7, 1952; did you attend a union meeting at the Hungarian Hall on South Liberty Street in Alliance, Ohio?

(The witness conferred with counsel.)

A. It is possible. I attended quite a few union meetings in Alliance around that time.

[fol. 262] Q. In order to help you identify this particular meeting, I will recall this to you: At the meeting when you were asked by Nick Trombitis and Robert Kelly if you were a member of the Communist Party, do you recall that particular meeting?

A. Yes.

Q. And do you remember what your answer to them was at that time?

(The witness conferred with counsel.)

A. State your question again, please?

Q. Will you read the question?

(Question read.)

A. Yes.

Q. Would you state that answer now?

(The witness conferred with counsel.)

A. The same answer.

Q. Do you mean you are giving the same answer now? You don't mean you gave the same answer to the members of your union back on April 7, 1952?

A. I am giving the same answer as I gave in previous questions asked by this committee.

Q. In other words, when you were asked by the members of the local back in Alliance, you didn't say that you refused to answer, did you?

(The witness conferred with counsel.)

A. That is correct.

[fol. 263] Q. As a matter of fact, you told them in ringing terms that you were not now and had never been a member of the Communist Party; isn't that correct?

(The witness conferred with counsel.)

A. Same answer.

Q. The difference at that time was that you were not under oath, and under no legal compulsion to tell the truth; isn't that correct?

(The witness conferred with counsel.)

A. I feel that the people in that meeting had a right to that answer, but because of the answer that I gave previously to an original question which I am now identifying by "The same answer", I do not believe this committee has that right.

Q. Come; you are not intending to tell us you gave a truthful answer to that union when you said you were never a member of the Communist Party? Now that you are here, and under legal compulsion to tell the truth under pain and penalty of perjury, will you state that you are not now and have never been a member of the Communist Party?

A. Same answer.

Q. Now, as a matter of fact, following that meeting on that particular night, according to an article in the Alliance, Ohio, Review, you were ordered by a vote of the U.E. members to leave that meeting and not to return until you appeared before a meeting of the Ohio Un-American [fol. 264] Activities Commission and stated under oath that you were not a member of the Communist Party. Isn't that correct?

(The witness conferred with counsel.)

A. I believe that is about what happened.

Q. This, then, Mr. Slagle, is the opportunity you have been waiting for. Will you state here and now under oath that you are not now and have never been a member of the Communist Party?

A. Same answer.

Q. I didn't think you would.

Mr. Slagle, have you ever signed an affidavit of non-Communist officer, as required by the Taft-Hartley law?

(The witness conferred with counsel.)

A. I have never been required from my position in the union under the Taft-Hartley law.

Q. This statement, "I am not a member of the Communist Party or affiliated with the Communist Party," would you have any objection to signing such an affidavit?

(The witness conferred with counsel.)

A. I think the whole labor movement opposes the signing of such oaths.

Q. Do they oppose them for the same reason that you do, Mr. Slagle?

(The witness conferred with counsel.)

A. I think they all oppose them, because they are an [fol. 265] effort being made to break up unions and to control union democracy, too.

Q. For that reason and solely for that reason, you would refuse to sign such a non-Communist affidavit; is that not correct?

A. If I were in a position of being a union officer and the union required that I sign that, I would sign it.

Q. Sould such a statement under oath be true, Mr. Slagle?

A. The same answer.

Q. Do you know Herbert Hirschberg?

A. I know him as an international representative of the U. E. at the time I was employed by the U. E.; that is the United Electrical, Radio and Machine Workers of America.

Q. Did you ever attend any Communist Party meetings with Herbert Hirschberg?

A. Same answer.

Q. During 1952, were you assigned by the Communist Party in this area to work in the Progressive Party?

A. The same answer.

Q. I ask if it is not a fact that on the 21st of September, 1952, you attended the meeting of the Progressive Party held at the Croatian Hall and were one of the principal speakers at that meeting?

A. The same answer.

Q. I will ask you if it is not a fact that you spoke at [fol. 266] that time about the treatment that Communist Party members were receiving in the United States?

A. Same answer.

Q. And ask you if it is not a fact that you posed the question: "What will happen to the east of us?"

A. Same answer.

Q. As a matter of fact, that was strictly window dressing because you were at that time a member of the Communist Party and speaking for the most part to other members of the Communist Party; isn't that true?

A. Same answer.

Q. I ask you if it is not true that at that time, you said you expected to be called before the committee either in Ohio or one of the federal committees?

A. Same answer.

Q. I ask you if it is not a fact that you are now as of this moment an active member of the Communist Party in Stark County, Ohio?

A. Same answer.

Mr. Isaacs: I have no further questions.

Chairman Devine: Do members of the Commission wish to inquire of this witness?

Mr. Shull: Mr. Chairman.

Chairman Devine: Senator Shull.

Mr. Shull: Mr. Slagle, in the event of war between [fol. 267] this country and Soviet Russia, on which side would your sympathies and interests be?

A: Your name, please?

Q. Shull.

A. Mr. Shull, in the event that we would ever get into such a war, which I think would be very stupid and senseless and that all of us might be atom-bombed out of existence both here in America and all over the world and civilization destroyed, and therefore, I think we should do everything possible to avoid such a war, but in the event I were still living after the first wave of atom bombs on America, my sympathies would lie with this country.

Chairman Devine: Representative Sawicki, from Cleveland.

By Mr. Sawicki:

Q. Mr. Slagle, why did you leave the United Electrical Workers, leave their employment?

A. I was released from the staff.

Q. Was there any reason given?

A. As far as I know, staff readjustments.

Chairman Devine: Any further questions by members? Mr. Slagle, do you wish to give a statement to this commission other than the one already given?

The Witness: Yes, I do.

I was born on a farm in Crawford County, Ohio, and [fol. 268] received my elementary and high school education in that county school system. I then attended and graduated from Ohio State University in Columbus. With the exception of the time that I spent in the United States Army, I have been employed on various jobs in the state of Ohio since leaving Ohio State University.

My opinions and beliefs, whatever they may be, have been arrived at as a result of my schooling and experiences in this state. I am interested in safeguarding, promoting and expanding American democracy and the tradition of Thomas Jefferson, Abraham Lincoln and Franklin D. Roosevelt. My loyalty has always been to the American people and American democracy. I believe that the right to oppose injustices, undemocratic invasions of our freedom and the attempts of congressional and legislative committees to intimidate American citizens through McCarthy-like investigations is inherent in the American Bill of Rights.

In fact, I believe we are compelled to oppose McCarthyism in order that America itself can stand as a free nation and can show other countries of the world that we not only preach democracy, but also practice it.

In establishing this commission, the Legislature has declared that an emergency exists. There is an emergency situation in the Canton and Massillon area. Several thousand workers are now unemployed in this area and others [fol. 269] are working short weeks. They are wanting to know when they can get back to work. It is my own opinion that representatives in the General Assembly should seek an answer to their problem. There is also an emergency in the school system of Massillon. Schools are over-crowded and pupils are forced to attend classes in other buildings not suitable for schooling of our young people.

I have read recently this is a common problem in the state of Ohio. I think that if the state has money to spend, it will be much more fruitful to spend it on improving our school system instead of paying for the expenses of this commission which is smearing the names of people who have fought for the improvement of our country and for their union.

In summary, I believe that every American citizen has the obligation to work toward the improvement of American democracy, the betterment of your living standards and the elimination of legislative committees which invade the rights and privileges of American citizens without regard to our state and federal constitutions.

Mr. Shull: Mr. Chairman.
Chairman Devine: Senator Shull.

By Mr. Shull:

Q. Mr. Slagle, do you feel that you can be a loyal American and at the same time be a member of the Communist Party?
[fol. 270] A. Same answer.

By Mr. Isaacs:

Q. Mr. Slagle, are you one of the innocent people who are being smeared by being called here and asked about Communist Party affiliations?

(The witness conferred with counsel.)

A. I think it is the attempt of this committee to blacklist people.
Q. For being leaders of labor, or for being members of a subversive organization?
A. For being leaders of labor, yes.
Q. And that is the reason that you are called here today, because a year or so ago, you worked for the U. E.?
A. There are other reasons why people are called, because they have fought for peace and against war.
Q. How about you, Mr. Slagle? What was the reason that you were called here?

(The witness conferred with counsel.)

A. I can't see any deviation from the general pattern by this commission.
Q. No possibility that you were and are an active member of the Communist Party?
A. The same answer.

Chairman Devine: Any further questions?
Senator Dell.

[fol. 271] By Mr. Dell:

Q. Mr. Slagle, you make the accusation that it is the intent and the purpose of this commission to blacklist people or cause them to be placed upon a blacklist. For myself, I disclaim any intention or any willingness to cooperate, but if that is the effect, have you and are you not now availed of an opportunity to circumvent that purpose by removing yourself from any blacklist by answering these questions?

(The witness conferred with counsel.)

A. In order to do that, I would have to surrender my First Amendment rights, Fourteenth Amendment, and others that I have named.

Mr. Yoder: Mr. Chairman.

Chairman Devine: Representative Yoder, from Dayton.

By Mr. Yoder:

Q. I agree with you whole-heartedly in all the amendments to the Constitution. I believe in the First, the Fifth, the Fourteenth, and all of them. Our country is the greatest country for democracy there is in the world, but there isn't a country under the sun that will not call people to task if they get evidence that they are members of some group that is for the violent overthrow of that government, and certainly, when you say that this commission destroys free speech by calling such a person before this commission, if that isn't the golden opportunity for you to [fol. 272] exercise free speech and free press, free religious freedoms, then I don't know of a more sacred place in the world to go.

Chairman Devine: Are there any further questions or comments by members of the Commission?

The witness is then excused.

(Witness excused.)

Chairman Devine: We wish to again thank the Stark County authorities for making these facilities available.

The Commission is recessed subject to call of the Chair.

(Hearing closed at 4:15 p. m.)

[fol. 273] The above report contains all the evidence introduced and proceedings had in the trial of the case, given in the order as herein appears and at the times as herein stated, as shown by the stenographic notes taken on the trial.

/s/ Elsie F. Pfeifer
Official Shorthand Reporter.

Judge's Certificate to Bill of Exceptions

The above stenographer's report contains all the evidence offered by either party and by all parties in the trial of the case, together with the exceptions to the introduction or exclusion of evidence taken during the trial and at the time the evidence was being introduced, as shown by said report.

And the Court having found and returned a verdict in favor of the State of Ohio, plaintiff herein, the defendants within three days made and filed their motion for a new trial, which motion for a new trial was, after careful consideration, overruled by the Court, to which ruling of the Court the defendants at the time excepted, as appears of record in this case.

And the defendants having prepared this Bill of Exceptions herein, filed the same in this case on the 20 day of May, 1955, and notice of filing this Bill of Exceptions was on the 20 day of May, 1955, given by the Clerk to John Rossetti, Prosecuting Attorney of Stark County, Ohio, and Earle E. Wise, Assistant Prosecuting Attorney of Stark County, Ohio, counsel for the State of Ohio, plaintiff herein, and this Bill of Exceptions was on the 30 day of May, 1955, received by the undersigned, Paul G. Weber, Trial Judge, and on the 9 day of June, 1955, this Bill of Exceptions was allowed, corrected, signed and sealed by the undersigned Trial Judge and transmitted to the office of said Clerk of the Court of Common Pleas of Stark County, Ohio.

Paul G. Weber, Trial Judge.

5/18/55

[fol. 274]

IN THE COURT OF COMMON PLEAS
OF STARK COUNTY, OHIO

Opinion

No. 15974
No. 15973
No. 15975
No. 15976
No. 15972

STATE OF OHIO, Plaintiff,

—vs.—

OLGA PERRY, PAUL BOHUS, EULA ANN COOPER, ROSE MLADAJAN, LÆ VERNNE (LA VERNE) SLAGLE, Defendants.

WEBER, J.:

DECISION—March 30, 1955

The following decisions shall apply generally and individually to each of the above named defendants.

These cases have been submitted to this Court for the first time upon the merits and the evidence and briefs of counsel, each defendant having duly waived a jury trial and having agreed to a joint trial. Each defendant was indicted by a Grand Jury of this County on December 24, 1953, and each indictment contained ten counts of contempt for refusing to testify or answer questions before the Ohio Un-American Activities Commission which met in this County on October 21, 1953.

As to the powers and duties of the Commission, Section [fol. 275] 103.34 R. C., says:

"The Un-American activities commission shall:

(A) Investigate, study, and analyze:

(1) All facts relating to the activities of persons, groups, and organizations whose membership includes persons who have as their objective or

may be suspected of having as their objective the overthrow or reform of our constitutional governments by fraud, force, violence, or other unlawful means;

(2) All facts concerning persons, groups, and organizations, known to be or suspected of being dominated by or giving allegiance to a foreign power or whose activities might adversely affect the contribution of this state to the national defense, the safety and security of this state, the functioning of any agency of the state or national government, or the industrial potential of this state;

(3) The operation and effect of the laws of this state, of the several other states, and of the United States, which purport to outlaw and control the activities enumerated in this section and to recommend such additional legislation or revision of existing laws as may seem advisable and necessary;

(B) Maintain a liaison with any agency of the federal, state, or local governments in devising and promoting means of disclosing those persons and groups who seek to alter or destroy the government of this state or of the United States by force, violence, intimidation, sabotage, or threats of the same.

[fol. 276] The commission has such additional rights, duties, and powers as are necessary to enable it fully to exercise those specifically set forth in this section and to accomplish its lawful objectives and purposes."

As to the powers of the chairman of the Commission with respect to witnesses, Section 103.35 R. C., says in part:

"In case of disobedience on the part of any person to comply with a subpoena issued on behalf of the commission or on the refusal of any person or officer to testify to any matters regarding which he may be lawfully interrogated, or to conform to section 2705.02 of

the Revised Code, the chairman may be authorized by a majority of the members sitting at the time the alleged offense is committed, to cause a proceeding for contempt to be filed and prosecuted in the court of common pleas of any county under sections 2705.03 to 2705.09, inclusive, of the Revised Code."

As to the immunity of a witness who testified, Section 101.44 R. C., says:

"Except a person who, in writing, requests permission to appear before a committee or subcommittee of the general assembly, or of either house thereof, or who, in writing, waives the rights, privileges, and immunities granted by this section, the testimony of a witness examined before a committee or subcommittee shall not be used as evidence in a criminal proceeding against such witness, nor shall a person be prosecuted or subjected to a penalty or forfeiture on account of a transaction, matter, or thing, concerning which he testifies, or produces evidence. This section does not exempt a witness from the penalties for perjury."

[fol. 277] As to acts in contempt, Section 2705.02 R. C., says in part:

"A person guilty of any of the following acts may be punished as for a contempt:

(C) A failure * * * to answer as a witness, when lawfully required."

As to the trial and penalty, Section 2705.05 R. C., says:

"Upon the day fixed for the trial in a contempt proceeding the court shall investigate the charge, and hear any answer or testimony which the accused makes or offers.

The court shall then determine whether the accused is guilty of the contempt charge. If it is found that he is guilty, he may be fined not more than five hundred dollars, or imprisoned not more than ten days, or both."

Although in similar cases in Ohio involving the failure or refusal of witnesses to testify before the Un-American Activities Commission, the Common Pleas Courts of the counties of Summit, Franklin, Hamilton and this Court have been at some variance as to the procedure to follow in preferring the charges, all of these courts, including this Court, have been in agreement in sustaining the legality of the Commission and its right and power to subpoena witnesses, have them sworn and testify to the matters set [fol. 278] forth in Section 103.34 R. C., and such additional rights and powers of the Commission to accomplish its lawful objectives and purposes.

This Court in the instant cases also holds that the Commission was legally constituted at the hearings held on October 21, 1953, to which the defendants were duly subpoenaed and that the defendants were duly sworn to testify.

This Court also holds that these defendants are properly before this Court on indictments duly presented by a grand jury of this County charging that said defendants did unlawfully refuse to testify at the aforesaid hearing to matters regarding which they could be lawfully interrogated and be lawfully required to answer.

This Court further holds that the defendants were legally bound to testify to any matters regarding which they might be lawfully interrogated and to answer as witnesses when lawfully required, and a refusal to do so would make them guilty of contempt provided:

1. That the question propounded either was preliminary to the matter under inquiry or was relevant to the accomplishment of the lawful objectives and purposes of Section 103.34 R. C.

[fol. 279] 2. That the defendants intentionally, deliberately and with full knowledge of the consequences, refused to answer so as to show a contumacious conduct upon their part.

3. That the defendants' testimony in answer to the interrogatories could not be used as evidence in any criminal proceeding against them in the event their testimony might be self-incriminating. That is, that they were granted complete immunity as witnesses.

As to No. 3, this Court holds that Section 101.44 R. C., granted the defendants complete immunity and that any protection of the Fifth Amendment of the United States Constitution and Section 10, Article 1, of the Ohio Constitution, or any other parts of these constitutions, are therefore, not available to the defendants. The record shows that these five defendants were all present at the hearing together with their counsel and that each could hear the counsel for the Commission explain the question of immunity and claim of privilege (P. 7).

[fol. 280] As to No. 2, this Court holds that the defendants had such intention and knowledge and still exhibited contumacious conduct in refusing to answer. Starting with the first witness, Olga Perry, the chairman made it clear that the witnesses were required and ordered to answer (P. 8, 9, etc.). No particular or specific ritual is required to put a witness in contempt. The entire record contains sufficient evidence to support a finding that each defendant deliberately and intentionally refused to answer. The evidence is ample that each defendant was made well aware that the Commission desired answers to its questions despite the grounds they advanced in refusing. These are not cases where out of dozens of questions a witness refuses to answer one or two questions under claim of privilege, etc., in which event an order to answer might be required.

This brings us to No. 1, which involves each question in each count of the indictments. The Court shall consider same as to each defendant separately.

Le Vernne Slagle

First Count. There are two questions involved in this question: first, whether defendant was chairman of the Peace Mobilization Committee, and, second, was it Communist-dominated. Thus the question was so called "double-barrelled" and improper. Not guilty.

[fol. 281] Second Count. Two questions again: first, was he active in the North Side Peace League, and, second, did the Communist party set it up. Not guilty.

Third to tenth count inclusive—guilty each count.

Paul Bohus

First Count. Time referred to—years 1932 to 1935 (P. 37). Guilty.

Second to Fifth count inclusive. Guilty each count.

Sixth Count. Refers to the commission of a criminal act in the future. Not Guilty.

Seventh Count. Guilty.

Eighth Count. Time referred to—year 1940 (P. 45). Guilty.

Ninth Count. Guilty.

Tenth Count. Refers to a possible event of the future, and question also is too vague. Not Guilty.

Olga Perry

First Count. Might go to the question of whether or not she was using an assumed name. Guilty.

Second Count. Question not relevant—would make no difference what the names were. Not Guilty.

Third, Fourth, and Fifth Counts. Guilty each count.

[fol. 282] Sixth Count. Question too vague. Not Guilty.

Seventh and Eighth Counts. Guilty each count.

Ninth Count. Word "she" refers to Eva Nemeth (P. 24). Guilty.

Tenth Count. Refers to a possible event of the future, and question also is too vague. Not Guilty.

Eula Ann Cooper

First, Second and Third Counts. Guilty each count.

Fourth Count. Time refers to prior to September 1948 (P. 78). Guilty.

Fifth Count. Guilty.

Sixth Count. Might go to the question of using an assumed name. Guilty.

Seventh, Eighth and Ninth Counts. Guilty each count.

Tenth Count. Refers to a possible event of the future, and also is too vague. Not Guilty.

Rose Mladajan

First to Seventh Count inclusive. Guilty each count.

Eighth Count. Refers to November 2, 1952—a fund raising meeting for the Progressive Party. Guilty.

Ninth Count. Too general a question and also is vague. Not Guilty.

Tenth Count. Guilty.

[fol. 283]

IN THE COURT OF APPEALS OF STARK COUNTY
FIFTH JUDICIAL DISTRICT OF OHIO

Appeal—Law.

Docket No. 5

Case No. 2684

STATE OF OHIO,

Plaintiff-Appellee,

Crim. Doc. 28—15972
" " 28—15973
" " 28—15974
" " 28—15975
" " 28—15976

—VS—

LAVERNE SLAGLE,
PAUL BOHUS,
OLGA PERRY,
EULA ANN COOPER,
ROSE MLADAJAN,

Defendants-Appellants.

Docket and Journal Entries

1955 May 2—Notice of Intention to File Appeal and Appeal filed.

1955 May 11—Five (5) Transcripts of the Record and Original Papers from the Common Pleas Court filed.

1955 May 16—Three Briefs Defendants-Appellees filed.

1955 June 9—Bill of Exceptions filed.

1955 Sept. 7—Motion to continue filed.

1955 Dec. 31—Three Briefs of Plaintiff-Appellee filed.

1958 Jun. 6—(Journal Entry G/593) This cause came on to be heard upon the motions of the defendants, Laverne Slagle, Paul Bohus, Olga Perry, Eula Ann Cooper and Rose Mladajan to treat this appeal as a consolidation of each of their separate charges into one case. The defendants-appellants and each of them through their attorney having filed a joint or consolidated brief before this Court upon the question of law raised by the Appeal. The Plaintiff-Appellee, having filed an answer brief encompassing all five cases into the one answer brief.

[fol. 284] After oral arguments had and after study of the briefs presented upon the questions of law the Court finds that, since all the five cases raise the same issues, they should be considered as one cause and further finds that no errors of law intervened in the trial for which a reversal should be had.

It is, therefore, ordered, adjudged and decreed that these five separate appeals be considered as one and that in each of the separate cases in the lower Court the judgment of the lower Court be, and the same hereby is, affirmed.

C. B. McClintock, P.J., Robert B. Putnam, J., D. Deane McLaughlin, J.

Approved by:

Norman J. Putman, Prosecuting Attorney.

Joseph L. Hilton, Attorney for Defendants-Appellants.

1958 June 24—Notice of Appeal filed.

1958 June 24—Praecipe for Transcript filed.

[fol. 285] Clerk's Certificate to foregoing paper (omitted in printing).

[fol. 286]

IN THE COURT OF APPEALS OF STARK COUNTY
FIFTH JUDICIAL DISTRICT OF OHIO

Case No. 2684

STATE OF OHIO, Plaintiff-Appellee,

vs.

LAVERNE SLAGLE, PAUL BOHUS, OLGA PERRY, EULA ANN COOPER, ROSE MLADAJAN, Defendants-Appellants.

Judges: Hon. C. B. McClintock, Hon. Robert B. Putnam, Hon. D. Deane McLaughlin.

APPEARANCES

Norman Putman, Prosecuting Attorney, for Plaintiff-Appellee.

Joseph L. Hilton, for Defendants-Appellants.

OPINION—Decided May 16, 1958

PUTNAM, J.

The history of this case is succinctly set forth in the brief of the Plaintiff-Appellee, as follows:

> "The defendants-appellants were indicted separately for contempt of the Un-American Activities Commission, created and organized in accordance with the provisions of Sections 103.31 to 103.38, both inclusive, of the Revised Code, as supplemented by, the act of the General Assembly passed on the 1st day of June, 1951.

By entry of Court, on agreement of counsel, the cases have been consolidated for the purpose of this appeal.

The contempt charged is that the defendants, after having been duly sworn as witnesses before a duly constituted session of the Un-American Activities Commission, which met in the City of Canton, Ohio, on the 21st day of October, 1953, refused to testify in response to certain questions propounded to them.

A Demurrer filed to the indictments was sustained by His Honor, Judge Weber, and the cases were appealed to this Court, Case Nos. 2621, 2622, 2623, 2624, and 2625, and this Court, in an Opinion written by the Honorable Judge McClintock, decided November 2, 1954, held that the Court below committed prejudicial error in sustaining the Demurrer and dismissing the indictments in each of the five cases, and the judgment of said lower Court was reversed and the causes were remanded to said Court for further proceedings accord-[fol. 287] ing to law.

Thereafter, the Supreme Court refused to certify, and the defendants waived their right to a jury and elected to be tried by a Judge of the Court in which the indictments were pending. Said trial proceeded before Judge Paul Weber, and on the 30th day of March, 1955, the Court found the defendants guilty on various counts of the individual indictments and sentenced each defendant to imprisonment in jail for ten (10) days and to pay a fine of Five Hundred Dollars ($500.00) on each count of which they were convicted; the prison sentences, however, running concurrently and the fines other than the first one being remitted."

These cases are now before this Court on appeal by the defendants from that judgment rendered in the Court below. They have all been consolidated in Case No. 2684 by agreement and heard together.

While this appeal is designated as one on law and fact, it is actually one upon law only, not being a chancery case, and is so treated by the parties and by the Court.

It is to be noted that this case was filed in this Court early in 1955 and all of the briefs were filed in that year. This case has not heretofore been heard in this Court because of the finding in the Supreme Court of Ohio of the case of State vs. Morgan, 164 Ohio State, 529 (decided February 23, 1956) and the appeal of that case to the Supreme Court of the United States, where a decision was made remanding the case to the Supreme Court of Ohio for further consideration, in view of certain decisions of the United States Supreme Court.

Since the Supreme Court of Ohio in this case, upon remand (167 Ohio State, 295), adhered to its former judgment, this Court has now promptly heard this appeal.

The only argument of the appellants herein, while they filed no supplemental briefs, is that the facts are different [fol. 288] than in the Morgan case and that the questions propounded were not pertinent to the issues. The other arguments in brief of appellants are a rehash of the arguments in the various dissenting opinions in the Morgan case in the Supreme Court of Ohio.

We need not be concerned with the latter arguments. While they may or may not be cogent, the majority opinion controls this Court.

A review of this record shows that the facts of this case come squarely within the purview of the facts and decision in the Morgan case, supra, and we are bound thereby.

The only remaining question before this Court is as to whether or not the questions propounded by the Committee, were pertinent to the issues under investigation. The lower Court said that they were in the instances in which judgment was rendered, and we are in accord with that finding.

There being no error in the record, the judgment is affirmed.

McClintock, P.J. and McLaughlin, J. concur.

[fol. 289] Clerk's Certificate to foregoing paper (omitted in printing).

[fol. 291] [File endorsement omitted]

IN THE COURT OF APPEALS OF STARK COUNTY
FIFTH JUDICIAL DISTRICT OF OHIO

Case No. 2684

Journal Entry

G/593

STATE OF OHIO, Plaintiff-Appellee,

—vs—

LAVERNE SLAGLE, PAUL BOHUS, OLGA PERRY, EULA ANN COOPER, ROSE MLADAJAN, Defendants-Appellants.

JUDGMENT—June 6, 1958

This cause came on to be heard upon the motions of the defendants, Laverne Slagle, Paul Bohus, Olga Perry, Eula Ann Cooper and Rose Mladajan to treat this appeal as a consolidation of each of their separate charges into one case. The defendants-appellants and each of them through their attorney having filed a joint or consolidated brief before this Court upon the question of law raised by the Appeal. The Plaintiff-Appellee, having filed an answer brief encompassing all five cases into the one answer brief. After oral arguments had and after study of the briefs presented upon the questions of law the Court finds that, since all the five cases raise the same issues, they should be considered as one cause and further finds that no errors of law intervened in the trial for which a reversal should be had.

[fol. 292] It Is, Therefore, Ordered, Adjudged and Decreed that these five separate appeals be considered as one and that in each of the separate cases in the lower Court the judgment of the lower Court be, and the same hereby is, affirmed.

C. B. McClintock, P.J., Robert B. Putnam, J., D. Deane McLaughlin, J.

Approved by:

Norman J. Putman, Prosecuting Attorney.

Joseph L. Hilton, Attorney for Defendants-Appellants.

[fol. 294] [File endorsement omitted]

IN THE COURT OF APPEALS OF STARK COUNTY
FIFTH JUDICIAL DISTRICT OF OHIO

No. 2684

THE STATE OF OHIO, Plaintiff-Appellee,

vs.

LAVERNE SLAGLE, et al., Defendants-Appellants.

NOTICE OF APPEAL ON QUESTIONS OF LAW TO THE SUPREME COURT OF OHIO—Filed June 24, 1958

Defendants-appellants hereby give notice of their appeal to the Supreme Court of Ohio, on questions of law, from the judgment and final order of this court made and entered on the 6th day of June, 1958, affirming a judgment of the Court of Common Pleas of Stark County, Ohio, convicting these appellants of a misdemeanor, to-wit: contempt of a state legislative committee.

This appeal is taken

(a) in a case involving constitutional questions;

(b) in a misdemeanor case on condition that a motion to certify be allowed by the Supreme Court.

Thelma C. Furry, Attorney for Defendants-Appellants.

[fol. 295] Acknowledgment of service (omitted in printing).

[fol. 296]

IN THE SUPREME COURT OF OHIO

Case No. 36292

Title of Case:

STATE OF OHIO, Plaintiff-Appellee,

vs.

LAVERNE SLAGLE et al., Defendant-Appellants.

Action:

Appeal from the Court of Appeals of Stark County.

Motion for an order directing the Court of Appeals of Stark County to certify its record.

Attorneys:

Norman J. Putman, Prosecuting Attorney, Harry N. Kandel, Asst. Pros. Attorney, Court House, Canton 2, Ohio;

Thelma C. Furry, 815 2nd National Bldg., Akron 8, Ohio.

Docket Entries

Date	Memoranda of Pleadings &c., Filed, Writs Issued, &c., Judgments, Orders and Decrees
June 25, 1958	Notice of appeal and proof of service filed.
June 25, 1958	Entry extending time for filing assignments of error and appellants brief for a period of 30 days after the U.S. Supreme Court has finally disposed of the case of Ohio v. Morgan. /s/ Carl V. Weygandt, Chief Justice, Journal 42, page 608.

June 27, 1958	Court of Appeals Transcript and Original Papers filed.
July 2, 1958	Motion for an order to certify record and certificate of service filed.
August 11, 1959	Entry extending time for appellants brief until 30 days after 5th District Court of Appeals has disposed of application for reconsideration. /s/ Carl V. Weygandt, Chief Justice, Journal 43, Page 203.
November 12, 1959	Cause docketed on appeal as of right.
November 12, 1959	Assignments of Error and appellants non-printed brief filed.
December 8, 1959	Leave to file appellee's brief instanter filed.
December 8, 1959	Appellee's non-printed brief and proof of service filed.

[fol. 297]

December 23, 1959	Motion for an order directing the Court of Appeals of Stark County to certify its record—Overruled. Journal 43, Page 318.
December 23, 1959	Dismissed sua sponte, no debatable constitutional question involved. Journal 43, page 321.
December 30, 1959	Original Papers and Bill of Exceptions sent to Clerk.
December 30, 1959	Notice of Appeal to United States be filed.
January 5, 1960	Application for rehearing filed.
January 13, 1960	Rehearing denied. Journal 43, page 342.
April 11, 1960	Notified application for rehearing to Supreme Court filed.

JOURNAL ENTRIES

JOURNAL 42, PAGE 608

ENTRY

Upon application of appellant, and for good cause shown, it is ordered that the time for filing assignments of error and appellants' brief herein be, and the same hereby is, extended for a period of thirty (30) days after the U.S. Supreme Court has finally disposed of the case of State of Ohio v. Morgan. /s/ Carl V. Weygandt, Chief Justice

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JOURNAL 43, PAGE 203

ENTRY

Upon application of appellants and for good cause shown, it is ordered that the time for filing appellants' brief in support of motion herein be, and the same hereby is, extended until thirty (30) days after the Fifth District Court of Appeals has disposed of Application for Reconsideration. /s/ Carl V. Weygandt, Chief Justice

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JOURNAL 43, PAGE 318

MOTION FOR AN ORDER DIRECTING THE COURT OF APPEALS OF STARK COUNTY TO CERTIFY ITS RECORD:

It is ordered by the Court that this motion be, and the same hereby is, overruled.

[fol. 298] JOURNAL 43, PAGE 321

APPEAL FROM THE COURT OF APPEALS OF STARK COUNTY

This cause came on to be heard upon the transcript of the Record of the Court of Appeals of Stark County as upon the motion of the appellee to dismiss the appeal, filed as of right herein, and was argued by counsel.

On consideration whereof, it is ordered and adjudged that said appeal be, and the same hereby is, sua sponte

dismissed for the reason no debatable constitutional question is involved in said cause.

It is further ordered that the appellee recover from the appellants its costs herein expended, taxed at $.....

ORDERED, That a special mandate be sent the Court of Common Pleas of Stark County, to carry this judgment into Execution.

ORDERED, That a copy of this entry be certified to the Clerk of the Court of Appeals of Stark County, "for entry."

[fol. 302] [File endorsement omitted].

No. 36292

IN THE SUPREME COURT OF OHIO

[Title omitted]

MOTION FOR AN ORDER TO CERTIFY RECORD—
Filed July 2, 1958

[fol. 303] Defendants-appellants respectfully move this Honorable Court for an order requiring the Court of Appeals for Stark County, Ohio, to certify the record in cause No. 2684 on the docket of said court to this court for review.

On the 6th day of June, 1958, said Court of Appeals rendered a judgment and final order in said cause No. 2684 affirming a judgment of the Common Pleas Court of Stark County, Ohio, convicting these appellants of misdemeanor, to-wit: contempt of Court for failing to answer questions asked by counsel of the Ohio Un-American Committee.

Said defendants-appellants represent that error intervened in the trial of said cause prejudicial to said defendants-appellants in the particulars set forth in the following assignments of error:

There is error in said record and proceedings which is violative of the free speech clauses of the Constitutions of

the United States and of the State of Ohio (the First Amendment, and Article I, Sections 1, 2, 3 and 11, respectively); and which is violative of the privilege against self-incrimination guaranteed in the Federal and State Constitutions (the Fifth and Fourteenth Amendments, and Article I, Section 10, respectively); and which is violative of the provisions in the Federal Constitution for the supremacy of its powers over state action in certain areas (Article VI, clause 2; Article I, Sections 8 and 10; Article II, Section 2; Article IV, Section 4); and which is violative of the provisions of the State Constitution for the separation of powers among the legislative, executive and judicial branches of government (Article II, Sections 1 and 32; Article III, Section I; Article IV, Section 1); *and which is violative of the provisions of the State Constitu-*
[fol. 304] *tion for the limiting of powers of the legislature (Article II, Section 8).*

This cause is one of both public and great general interest, as it involves the constitutionality of, and the construction of Section 103.34 R.C. (setting forth the purposes of the Un-American Activities Commission of Ohio), and the construction of Section 101.44 R.C. (immunity statute), Section 103.35 R.C. (procedure for punishing contempt of the said Commission), Sections 2705.03 to 2705.09 R.C., inclusive (procedure under which indictment was brought in the instant case).

The judgment of the Court of Appeals was entered June 6, 1958.

Wherefore, Defendants-Appellants pray that this Motion for Order to Certify be granted.

Thelma C. Furry, Attorney for Defendants-Appellants.

Certification of Service (omitted in printing).

[fol. 305]

IN THE SUPREME COURT OF OHIO

ASSIGNMENT OF ERRORS—Filed November 12, 1959

The decisions were contrary to law and against the weight of evidence in the following matters:

1. The defendants-appellants did not unlawfully refuse to answer the questions asked by counsel for the Un-American Activities Commission:
   (a) They claimed their Constitutional privileges by advice of counsel in all their answers;
   (b) They were not directed to answer the questions;
   (c) They were not offered complete immunity so as to negative their Constitutional privileges.
2. The Commission had no authority to subpoena witnesses or ask private citizens questions on October 21, 1953, the dates of the hearings in Stark County.
3. The Commission asked questions exceeding its powers of investigation:
   (a) By asking questions in a field in which federal legislation has superseded state action and in which the Commission therefore could not propose legislation;
   (b) By asking questions with no legislative purpose but solely with an accusatorial purpose;
   (c) By asking questions invading the defendants-[fol. 306] appellants' constitutionally-protected rights to freedom of speech, press, assembly, thought and belief.
4. The defendants-appellants were denied due process of law contrary to Article I, Section 16, of the Constitution of the State of Ohio, and the Fifth and Fourteenth Amendments to the Constitution of the United States.
5. The defendants-appellants were not informed by the Commission of any legislative purpose for the questions propounded to them.

[fol. 307] [File endorsement omitted]

No. 36,292

IN THE SUPREME COURT OF OHIO

[Title omitted]

APPLICATION FOR REHEARING—Filed January 5, 1960

[fol. 308] Now come the appellants in the above cause and hereby respectfully make application for rehearing for the following reasons:

1. The decision made by the Court in this matter is of great public interest to the State and all political subdivisions thereof and the people thereof.

2. The decision is of great public and general interest in the State because of the many other cases involving the same or similar issues which were reversed by the Appellate Courts in Summit and Franklin Counties in line with the unanimous decision of the Supreme Court of the United States in *Raley* v. *State of Ohio,* 354 U.S. 928.

3. The decision of the Appellate Court in Stark County is contrary to and in conflict with the decisions of the Appellate Courts in Summit and Franklin Counties, and is diametrically opposed to the unanimous decision of the Supreme Court of the United States.

4. The verdict of guilty of contempt in the absence of a direction to answer constitutes a denial of due process under the Fourteenth Amendment to the U.S. Constitution, similar to that involved in the *Raley* case.

5. The verdict of guilty of contempt for refusal to answer questions because of an immunity statute covering state prosecutions is a denial of due process under the Fourteenth Amendment to the U.S. Constitution, and a deprivation of privileges and immunities of citizenship contained therein when answers could lead to prosecution in the federal [fol. 309] jurisdiction.

6. The verdict of guilty of contempt for refusal to answer questions which could result in prosecution in the federal

jurisdiction because of an immunity statute covering state prosecutions is a denial of due process under the Fourteenth Amendment to the United State Constitution when the statute gives the said State Commission the power and *duty* to cooperate with and disclose to *federal* officials the testimony given by witnesses in the state proceedings, so that the State is acting in part as an *agent* of the *federal* jurisdiction and is itself participating in making the offered immunity inadequate to prevent prosecution.

7. The verdict of guilty of contempt for refusal to answer questions before the said State Commission as to matters over which the state legislature has no jurisdiction because the federal government has superseded state action contradicts the "supreme law" clause of the U.S. Constitution (Art. VI, clause 2), and the guarantee by the federal government to every state of a "republican form of government" (U.S. Constitution, Art. IV, Sec. 4), and to "provide for the common defense and general welfare" (Art. I, Sec. 8).

8. The decisions of the lower courts does and will deprive appellants of the due process of law and privileges and immunities of citizenship guaranteed in the Fourteenth Amendment to the U.S. Constitution, the residual rights of citizenship described in the Ninth Amendment to the U.S. Constitution, and their rights under the Ohio Constitution.

[fol. 310] In conclusion, appellants pray that, if this Honorable Court shall decide not to rehear this matter, or, on rehearing, affirms the lower courts' decisions, it will in its opinion dispose of all federal questions enumerated above so that these federal questions will be properly saved in the event of appeal or application for certiorari in the United States Supreme Court.

Desirous of presenting the foregoing to the Court for its consideration, this application for a rehearing is respectfully submitted.

Thelma C. Furry, Attorney for Defendants-Appellants.

[fol. 311]

IN THE SUPREME COURT OF OHIO

JOURNAL ENTRY OF ORDER DENYING REHEARING—
January 13, 1960

Application for Rehearing

Upon consideration of the above application for rehearing, it is ordered by the Court that rehearing be, and the same hereby is, denied.

[fol. 312] [File endorsement omitted]

No. 36,292

(170 O. S., 216)

IN THE SUPREME COURT OF OHIO

[Title omitted]

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed April 11, 1960

[fol. 313] I. Notice is hereby given that Laverne Slagle, Paul Bohus, Olga Perry, Eula Ann Cooper and Rose Mladajan, the appellants above named, hereby appeal to the Supreme Court of the United States from the final order of the Ohio Supreme Court January 13, 1960, denying the application for rehearing of the Ohio Supreme Court's decision of December 23, 1959, affirming the judgment of conviction entered herein on March 30, 1955, by the Court of Common Pleas for Stark County, Ohio, and affirmed by the Court of Appeals for the Fifth Judicial District of Ohio on May 16, 1958.

This appeal is taken pursuant to 28 U. S. C. A., Sec. 1257 (2).

The appellants were convicted of contempt in violation of Ohio Revised Code Section 2705.02 (formerly Ohio General Code Section 12137) for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, a legislative committee created

by the Ohio Legislature by Revised Code Section 103.31 through 103.38 (formerly Ohio General Code Sections 76-28 through 76-35).

II. The Clerk will please prepare a transcript of all the proceedings in the Supreme Court of Ohio in this cause, including the Application for Rehearing, this Notice of Appeal and certificate of service of same, for transmission to the Clerk of the Supreme Court of United States.

III. The following questions are presented by this appeal:

1. Whether Section 103.34 of the Revised Code of Ohio creating the power and duties of the Ohio Un-American Activities Commission is unconstitutional because it legis- [fol. 314] lates in an area and authorizes legislative investigation in an area in which United States Congressional action has preempted and superseded the power of the state.

2. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the due process clause of Section I of the Fourteenth Amendment to the Constitution of the United States for the reason that appellants were not directed by said Commission to answer such questions following appellants' assertion of their privilege against self-incrimination.

3. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the due process clause of Section I of the Fourteenth Amendment to the Constitution of the United States for the reason that although appellants were advised by said commission that they were entitled to their privilege against self-incrimination said Court held that under the State immunity statute, Ohio Revised Code Section 101.44, appellants were not entitled to such privilege.

4. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the due process clause of Section I of the Fourteenth Amendment to the Constitution of the United States for the rea-
[fol. 315] son that the State immunity statute, Ohio Revised Code Section 101.44, under which appellants were denied their privilege against self-incrimination does not grant immunity from prosecution by the United States or other States.

5. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the privilege against self-incrimination clause of the Fifth and Fourteenth Amendments to the Constitution of the United States for the reason that the State immunity statute, Ohio Revised Code Section 101.44, under which appellants were denied their privilege against self-incrimination does not grant immunity from prosecution by the United States or other States.

6. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the freedom of speech and assembly clauses of the First and Fourteenth Amendments to the Constitution of the United States for the reason that said commission was authorized to investigate, and the appellants were asked questions concerning, their beliefs, opinion, activities, affiliations and discussions.

7. Whether the statutes involved as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American

[fol. 316] Activities Commission of Ohio, is unconstitutional because it grants the state power to compel disclosure of matters interconnected with the protected freedoms of speech and assembly.

8. Whether the statutes involved as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted is unconstitutional because the grant of authority to the Ohio Un-American Activities Commission is too broad and ill-defined.

Thelma C. Furry, 815 Second National Building, Akron 8, Ohio (Je 5-5514), Attorney for Defendants-Appellants.

Proof of Service (omitted in printing).

[fol. 317] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 318]

SUPREME COURT OF THE UNITED STATES

No. 105—October Term, 1960

LAVERNE SLAGLE et al., Appellants,

vs.

OHIO

Appeal from the Supreme Court of the State of Ohio.

ORDER POSTPONING JURISDICTION—October 10, 1960

The statement of jurisdiction in this case having been submitted and considered by the Court, further consideration of the question of jurisdiction is postponed to the hearing of the case on the merits.

FILE COPY

Office-Supreme Court, U.S.
FILED
MAY 27 1960
JAMES R. BROWNING, Clerk

In the Supreme Court of the United States

OCTOBER TERM, 1959.

No. ~~961~~ 105

LAVERNE SLAGLE,
OLGA PERRY,
ROSE MLADAJAN,
EULA ANN COOPER,
PAUL BOHUS,
Appellants,

vs.

STATE OF OHIO,
Appellee.

APPEAL FROM THE SUPREME COURT OF OHIO.

JURISDICTIONAL STATEMENT.

THELMA C. FURRY,
815 Second National Bldg.,
Akron 8, Ohio,
Attorney for Appellants.

THE GATES LEGAL PUBLISHING CO., CLEVELAND, OHIO—MAIN 1-9647

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In the Supreme Court of the United States

OCTOBER TERM, 1959.

No. _____.

LAVERNE SLAGLE,
OLGA PERRY,
ROSE MLADAJAN,
EULA ANN COOPER,
PAUL BOHUS,

Appellants,

vs.

STATE OF OHIO,

Appellee.

APPEAL FROM THE SUPREME COURT OF OHIO.

JURISDICTIONAL STATEMENT.

(a) OPINIONS.

The Supreme Court of Ohio did not deliver an opinion. The opinion of the Court of Appeals for the Fifth District of Ohio is attached in Appendix "A." The opinion of the trial judge of the Court of Common Pleas of Stark County, Ohio, is attached in Appendix "B." Neither of the opinions has been reported. Copy of the Order and Judgment appealed from is attached as Appendix "C," also reported in 170 O. S. 216.

(b) JURISDICTION.

(i) This is an appeal pursuant to 28 U. S. C. 1257(2) from a final order made and entered in the Supreme Court of Ohio, affirming the judgment of the Court of Appeals for the Fifth District of Ohio which affirmed the convictions of appellants in the Court of Common Pleas of Stark County, Ohio, of contempt in violation of Ohio Revised Code Section 2705.02 (formerly Ohio General Code Section 12137) for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio.

(ii) The Supreme Court of Ohio entered its judgment and order from which review is sought on December 23, 1959. Appellants' Application for Rehearing was denied on January 13, 1960. Notice of Appeal was filed in the Supreme Court of Ohio on April 11, 1960.

(iii) It is believed that section 1257, subdivision 2 of Title 28 of the Federal Code confers jurisdiction of the appeal on this Court:

> "1257. State Courts—Appeal—Certiorari—Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:
>
> * * * * *
>
> (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

(iv) **Cases believed to sustain the jurisdiction:**

Raley v. Ohio, 360 U. S. 423;
Sweezy v. New Hampshire, 354 U. S. 234;
Watkins v. United States, 354 U. S. 178;

Pennsylvania v. Nelson, 350 U. S. 497;
NAACP v. Alabama, 357 U. S. 449;
Scull v. Virginia, 359 U. S. 344;
Knapp v. Schweitzer, 357 U. S. 371;
Quinn v. United States, 349 U. S. 155;
Emspak v. United States, 349 U. S. 190;
Sorrells v. United States, 287 U. S. 435, 442;
Lanzetta v. New Jersey, 306 U. S. 451;
United States v. Cardiff, 344 U. S. 174;
Johnson v. United States, 318 U. S. 189, 197;
Flaxer v. United States, 358 U. S. 147, 151.

(v) **The State Statutes involved:**

Ohio Revised Code section 103.34. "The (Un-American activities) commission shall have the power and duty

(1) to investigate, study and analyze

(a) all facts relating to the activities of persons, groups, and organizations whose membership includes persons who have as their objective or may be suspected of having as their objective the overthrow or reform of our constitutional governments by fraud, force, violence, or other unlawful means;

(b) all facts concerning persons, groups and organizations, known to be or suspected of being dominated by or giving allegiance to a foreign power or whose activities might adversely affect the contribution of this state to the national defense, the safety and security of this state, the functioning of any agency of the state or national government or the industrial potential of this state;

(c) the operation and effect of the laws of this state, of the several other states, and of the United States, which purport to outlaw and control the activities enumerated above and to recommend such additional legislation or revision of existing laws as may seem advisable and necessary;

(2) To maintain a liaison with any agency of the federal, state or local governments in devising and promoting means of disclosing those persons and groups who seek to alter or destroy the government of this state or of the United States by force, violence, intimidation, sabotage or threats of the same.

In addition thereto the commission shall have such additional rights, duties and powers as may be necessary to enable it fully to exercise those specifically set forth herein and to accomplish its lawful objectives and purposes."

Ohio Revised Code, section 101.44. "Testimony before committee not to be used in criminal prosecution of witness; exception.

Except as to a person who, in writing, requests permission to appear before such committee or subcommittee or who, in writing waives the rights, privileges and immunities granted by this section, the testimony of a witness examined before a committee or sub-committee shall not be used as evidence in a criminal proceeding against him, nor shall a person be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter or thing, concerning which he so testifies, or produces evidences, documentary or otherwise; but nothing herein shall exempt a witness from the penalties of perjury."

Ohio Revised Code, section 2705.03. Hearing.

"In cases under section 2705.02 of the Revised Code, a charge in writing shall be filed with the clerk of the court, an entry thereof made upon the journal, and an opportunity given to the accused to be heard, by himself or counsel. This section does not prevent the court from issuing process to bring the accused into court, or from holding him in custody, pending such proceedings."

Ohio Revised Code, section 2705.05. Trial.

"Upon the day fixed for the trial in a contempt proceeding the court shall investigate the charge, and hear

any answer or testimony which the accused makes or offers.

"The court shall then determine whether the accused is guilty of the contempt charge. If it is found that he is guilty, he may be fined not more than five hundred dollars or imprisoned not more than ten days, or both."

(c) QUESTIONS PRESENTED BY THIS APPEAL.

1. Whether Section 103.34 of the Revised Code of Ohio creating the power and duties of the Ohio Un-American Activities Commission is unconstitutional because it legislates in an area and authorizes legislative investigation in an area in which United States Congressional action has preempted and superseded the power of the state.

2. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the due process clause of Section I of the Fourteenth Amendment to the Constitution of the United States for the reason that appellants were not directed by said Commission to answer such questions following appellants' assertion of their privilege against self-incrimination.

3. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the due process clause of Section I of the Fourteenth Amendment to the Constitution of the United States for the reason that although appellants were advised by said commission that they were entitled to their privilege against self-incrimination said Court held that under the State

immunity statute, Ohio Revised Code Section 101.44, appellants were not entitled to such privilege.

4. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the due process clause of Section I of the Fourteenth Amendment to the Constitution of the United States for the reason that the State immunity statute, Ohio Revised Code Section 101.44, under which appellants were denied their privilege against self-incrimination does not grant immunity from prosecution by the United States or other States.

5. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the privilege against self-incrimination clause of the Fifth and Fourteenth Amendments to the Constitution of the United States for the reason that the State immunity statute, Ohio Revised Code Section 101.44, under which appellants were denied their privilege against self-incrimination does not grant immunity from prosecution by the United States or other States.

6. Whether the statutes involved, as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, were in violation of the freedom of speech and assembly clauses of the First and Fourteenth Amendments to the Constitution of the United States for the reason that said commission was authorized

to investigate, and the appellants were asked questions concerning, their beliefs, opinion, activities, affiliations and discussions.

7. Whether the statutes involved as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted of contempt for refusing to answer certain questions propounded to them by the Un-American Activities Commission of Ohio, is unconstitutional because it grants the state power to compel disclosure of matters interconnected with the protected freedoms of speech and assembly.

8. Whether the statutes involved as interpreted and applied by the Supreme Court of Ohio, under which appellants were convicted is unconstitutional because the grant of authority to the Ohio Un-American Activities Commission is too broad and ill-defined.

(d) STATEMENT OF THE CASE.

(1) On the 21st day of October, 1953, these appellants appeared before the Ohio Un-American Activities Commission in obedience to subpoenas served upon them.

The hearing before said Commission was held in the Stark County Court House in open session.

Each appellant was represented by counsel, and upon advice of counsel each appellant declined (upon constitutional grounds) to answer some of the questions propounded to them; and upon advice of counsel each of the appellants *did answer* some of the questions propounded to them.

On the 24th day of December, 1953, each of the appellants were indicted ten (10) counts each by the Stark County Grand Jury, each count based upon a question that appellant had declined to answer.

Questions contained in indictment of LaVerne Slagle:

#1—Q. Isn't it a fact, that while you were still on campus in 1939, you were the chairman of the Communist-Dominated Peace Mobilization Committee on the Ohio State campus?

#2—Q. Isn't it a fact that you were active in an organization that the Communist Party set up known as the North Side Peace League?

#3—Q. I will ask you if it is not a fact that during 1941 you regularly held Communist party meetings at 105 West Lane Ave., Columbus?

#4—Q. Are you acquainted with Benjamin Davis?

#5—Q. I will ask you, if it is not a fact that in July of 1944, you were elected Secretary of the Communist Party Political Association?

#6—Q. Do you know Gus Hall?

#7—Q. I will ask you if it is not a fact that on the 11th of October, 1947, you attended a secret meeting at the Hotel Carter in Cleveland which was called for all U. E. Organizers who were also delegates to the State Communist party convention?

#8—Q. Did you ever attend any Communist party meetings with Herbert Hirschberg?

#9—Q. During 1952, were you assigned by the Communist party in this area to work in the Progressive party?

#10—Q. I will ask you if it is not a fact that you spoke at that time about the treatment that Communist party members were receiving in the United States?

Questions contained in indictment of Paul Bohus:

#1—Q. Now, were you out of the United States at any time during that period?

#2—Q. I will ask you if it is not a fact that on the 26th of June 1935, you did obtain a passport

from the State Department and went to the Soviet Union?

#3—Q. As a matter of fact, on the basis of that passport that you obtained on June 26, 1935, you went to the Soviet Union and attended the International Lenin Institute; isn't that correct?

#4—Q. Do you know William O'Dell Noel?

#5—Q. I ask you if you were taught sabotage and the practical methods of sabotage at the Lenin Institute?

#6—Q. Now in the event your Communist party superiors here in the United States order you to commit sabotage in the event of an uprising on behalf of the Soviet Union, would you commit sabotage for the Soviet Union?

#7—Q. Now, do you recall that back in 1937, the Communist Party for the State of Ohio put out a year book?

#8—Q. Now, the address you gave at that time was 1868 Guernsey Street, Belair [Bellaire], Ohio; did you live at that address?

#9—Q. Did you ever hear of Louis Budenz?

#10—Q. Mr. Bohus, in the event of a shooting war between our country and the Soviet Union, on which side would your sympathies and efforts be?

Questions contained in indictment of Olga Perry:

#1—Q. What is your husband's name?

#2—Q. What are your parents' names?

#3—Q. I will ask you if it is not a fact that in July 1940, you attended a meeting of a communist group, meeting in Columbus, Ohio, under the name of the Ohio Youth Conference?

#4—Q. Have you ever participated in any Communist gatherings here in Canton?

#5—Q. Do you know who Arnold Johnson is?

#6—Q. I state as a fact and ask you to affirm or deny the fact that you attended a meeting held in Cleveland, Ohio, in October 1944.

#7—Q. I will ask you if it is not a fact that on October 3, 1946, you held a meeting of the Communist youth arm, the American Youth for Democracy, in your own home?

#8—Q. Now are you familiar with Gus Hall?

#9—Q. As a matter of fact, she is the present treasurer of the Communist party here in Canton, is she not?

#10—Q. Mrs. Perry, in the event of a shooting war between Soviet Russia and the United States on which side would your sympathies and your efforts be?

Questions contained in indictment of Eula Ann Cooper:

#1—Q. Where did you reside prior to September, 1948?

#2—Q. November 20, 1909, what was your name at the time you were born; what was the name given you on baptism?

#3—Q. Did you ever hear the name Beulah Long?

#4—Q. Were you living in the State of Ohio during that period?

#5—Q. Did you ever live in the City of St. Louis, Missouri?

#6—Q. What is your husband's name, Mrs. Cooper?

#7—Q. Now, did you ever run for public office?

#8—Q. I ask you if it is not a fact that at 3:17 P.M. on April 28, 1948, you filed your declaration of candidacy on this Communist Party Ticket?

#9—Q. Are you married at the present time, Mrs. Cooper?

#10—Q. In the event of a shooting war with Russia, would your sympathies lie with the United States or Russia?

Questions contained in indictment of Rose Mladajan:

#1—Q. I ask you if it is not a fact that on January 12, 1944, you attended a meeting of the 10th Ward Branch of the Communist party held at the Diana Cafe in Canton?

#2—Q. Now do you know of Elizabeth Gourley Flynn?

#3—Q. I will ask you if it is not a fact that in 1946 you signed the nominating petition for the communist party leader of Canton, Carl Gulyate, who was running for County Commissioner at the time?

#4—Q. Did you take any part in the American Slav Conference?

#5—Q. Do you know who Gus Hall is?

#6—Q. Mrs. Mladajan, have you ever been in meetings at the Croatian Hall at any time except in your capacity as an employee?

#7—Q. I ask you if it is not a fact that during 1952 you were assigned by the Summit County section of the Communist Party to work in the Progressive Party in Stark County?

#8—Q. For the fund raising raffle you agreed to furnish cakes which you had baked, isn't that true, Mrs. Mladajan?

#9—Q. Do you know anything about the political situation between the United States and the Soviet Union?

#10—Q. Now do you regard the Communist Party as a subversive and disloyal organization?

On March 19, 1954, the trial court sustained a demurrer of the appellants and dismissed said indictments. Said decision was appealed to the Stark County Court of

Appeals, and on November 2, 1954, the decision of the lower court was reversed and the causes were remanded to said court for further proceedings, according to law. Thereafter the Ohio Supreme Court refused to certify.

The appellants proceeded to trial, having waived their right to jury trial. On the 30th day of March, 1955, the trial court found each of the appellants guilty on various counts of the individual indictments and sentenced each appellant to imprisonment in jail for ten (10) days and to pay a fine of Five Hundred Dollars ($500.00) on each count of which they were convicted; the jail sentences, however, running concurrently and the fines other than the first one being remitted, the trial court suspended execution of sentence and set an appeal bond of One Thousand Dollars ($1,000.00) for each appellant pending the within appeal.

Thereafter to-wit: on May 16, 1958, the Court of Appeals of Stark County affirmed the judgment of the trial court. Upon agreement of counsel the cases were consolidated for appeal to the Supreme Court of Ohio. The Supreme Court of Ohio dismissed the appeal (see Appendix "C"). The application for rehearing was denied.

(ii) **Stages in the proceedings and manner in which federal questions were raised.**

Question 1 (*supra*, p. 5), the statute which created the Commission and under which it was organized to act shows on its face that a primary purpose and power of the Commission was to investigate subversive and seditious activities of both persons and groups. The transcript of the hearing of the Commission which resulted in the indictments for contempt of appellants herein is attached to the Bill of Exceptions and identified as "State's Exhibit "K"—Transcript of Hearing before Ohio un-American Activities

Commission. Said transcript demonstrates that the Commission primarily concerned itself with investigating alleged sedition and suspected Communist seditious activities and subversive organizations. In particular, the transcript throughout shows that each appellant herein was interrogated as to his possible Communist and subversive activities in Ohio and other states and as to his presumed association with others who were allegedly Communists, or had been convicted or indicted under the Smith Act, or had been accused of plotting the overthrow of the federal government by force. Appellants raised this federal question in the Supreme Court of Ohio as Assignment of Error 3(a) (Transcript of Record, p. 14), and again in the Application for Rehearing, paragraph 7 (Transcript of Record, p. 18) which was denied.

As to question 2 (*supra*, p. 5). Transcript of the hearing before the Ohio un-American Activities Commission which is attached to the Bill of Exceptions and identified as "State's Exhibit "K" shows that in only two instances was an appellant confronted with the clear decision of continuing to invoke his privilege or testing his right to such on a contempt proceedings (State's Exhibit "K", re: Olga Perry, pp. 5-8, and re: Eula Ann Cooper, pp. 61-65; 72 and 73). In all other instances the Commission did not press for an answer. The trial court ruled upon this issue (see Appendix "B" attached hereto at page 24). Appellants raised this question in the Supreme Court of Ohio as Assignment of Error 1 (b) (Transcript of Record, p. 14), and again in the Application for Rehearing paragraph 4 (Transcript of Record, p. 17), which was denied.

As to question 3 (*supra*, p. 5). Transcript of the hearing before the Ohio un-American Activities Commission which is attached to the Bill of Exceptions and identified as "State's Exhibit "K" at page 7 the counsel for the

Commission called the first witness's attention to a recent decision by the Common Pleas Court of Franklin County (Ohio) in which the immunity statute was held to apply, and again at page 38 counsel for the commission referred to the same decision when the second witness was being questioned. *But at no time were any of the appellants offered immunity by the commission or by any court in exchange for testimony.* At the time of these hearings the Ohio Supreme Court had not yet handed down its opinion in the *Morgan* and *Raley* cases in which it held that the immunity statute applied and that the privilege granted by the Fifth Amendment of the Federal Constitution and the Ohio Constitution, Article I, section 10 was not available to the witnesses called before the Ohio un-American Activities Commission. The trial court dealt with this issue (see appendix "B" attached hereto, at pp. 24-25). Appellants raised this question as Assignment of Error 1 (c) in the Supreme Court of Ohio (Transcript of Record p. 14), and again in the Application for Rehearing paragraphs 5 and 6 (Transcript of Record pp. 17 and 18) which was denied.

Questions 4 and 5 (*supra* p. 6). It is clear that the state immunity statute does not and could not grant immunity from prosecution by the federal government and other states. It is also clear that the Commission by its legislative mandate was authorized and directed to investigate subversive activities unlawful under federal and other state laws and to transmit incriminating information received to the federal and other state governments. The Supreme Court of Ohio (164 O. S. 539-542) sustained the validity of this statute. Appellants raised this question as Assignment of Error 1(c) in the Supreme Court of Ohio (Transcript of Record p. 14) and again in the Application for Rehearing, paragraphs 5 and 6 (Transcript of Record pp. 17 and 18) which was denied.

As to questions 6, 7, and 8 (*supra*, pp. 6-7). They all come within the holdings and doctrines of *Watkins v. United States*, 354 U. S. 178, and *Sweezy v. New Hampshire*, 354 U. S. 234. These questions were raised in Trial Court and Court of Appeals by briefs and oral argument, and in the Supreme Court of Ohio by Assignment of errors 3(b) (c), 4 and 5 (Transcript of Record, pp. 14-15) and again in the Application for Rehearing paragraph 8 (Transcript of Record, p. 18), which was denied.

(e) THE FEDERAL QUESTIONS ARE SUBSTANTIAL.

The decision in this matter is diametrically opposed to the unanimous decision of the Supreme Court of the United States in *Raley v. State of Ohio*, 360 U. S. 423.

At the time the *Raley* case (*supra*) and its companion case *Morgan vs. Ohio* was pending in this Court there were ninteen other witnesses who had been found guilty of contempt of the Ohio un-American Commission whose cases were held in suspension until after this Court delivered an opinion in *Morgan* and *Raley*. As a result of the decision by this Court in the *Raley* and *Morgan* cases the Court of Appeals in Summit County, Ohio, reversed the conviction of eight of the witnesses; and the Court of Appeals in Franklin County, Ohio reversed the conviction of six of the witnesses. But the Court of Appeals of Stark County, Ohio, refused to reverse the convictions of these five appellants, and the Ohio Supreme Court refused to review the convictions. These appellants informed the Ohio Supreme Court of the fact that the Stark County Court of Appeals decision was in conflict with the decisions of the Court of Appeals in Summit County and Franklin County, and contrary to the decision of this Court in oral argument and in Application for Rehearing, paragraphs 2 and 3 (Transcript of Record p. 17).

In *Raley* (*supra*) at page 444 this Court said:

> "The test is whether the witness was commanded to answer regardless. * * *"

Appellants, Slagle, Bohus and Mladajan were not commanded to answer any question contained in their indictment. (State's Exhibit "K" attached to Bill of Exceptions.)

The questions appellants raised in this case throughout the State Courts and which they present to this Court are precisely the same ones that were raised in the *Morgan* and *Raley* cases.

This Court said in *Raley v. Ohio*, 360 U. S. 423, at page 425:

> "The issues tendered by the parties range broadly and involve the power of the Ohio Legislature, in view of existing federal legislation, to investigate activities deemed subversive of the forms of government within the Nation, cf. Pennsylvania v. Nelson, 350 U. S. 497; the power of the State to compel disclosure of matters interconnected with the protected freedoms of speech and assembly, cf. NAACP v. Alabama, 357 U. S. 449; Sweezy v. New Hampshire, supra; the existence of an expressed legislative interest for such an inquiry, and its definition and articulation to the person summoned, cf. Watkins v. United States, supra; Sweezy v. New Hampshire, supra; Scull v. Virginia, 359 U. S. 344; and the effect on testimonial compulsion of state immunity statutes not affording immunity from federal prosecution, cf. Knapp v. Schweitzer, 357 U. S. 371. But our disposition of these cases makes it unnecessary to consider the application of the principles of the cases just cited."

At page 437:

> "Second. We conclude that the judgments of conviction rendered below violate the Due Process Clause of the Fourteenth Amendment, with an exception to

be later noted. We need not decide whether there is demanded of state investigating bodies as explicit a rejection of a claimed privilege against self-incrimination as has been held to be necessary under the statute punishing contempts of Congress. Quinn v. United States, 349 U. S. 155; Emspak v. United States, 349 U. S. 190, 202; Bart v. United States, 349 U. S. 219. Nor need we decide whether it would be a sufficient basis for reversal here simply that the appellants were not given notice of the immunity law at the inquiry, though in analogous contexts we have insisted that state investigators make clear to those before them the basis on which an answer is required. Scull v. Virginia, 359 U. S. 344, 353."

This appeal, therefore, presents extraordinary and substantial constitutional questions which should be ruled upon by this Court.

Respectfully submitted,

THELMA C. FURRY,
815 Second National Bldg.,
Akron 8, Ohio,
Attorney for Appellants.

APPENDIX A.

Opinion of the Court of Appeals of Stark County, Ohio.

May 16, 1958.

PUTNAM, J.

The history of this case is succinctly set forth in the brief of the Plaintiff-Appellee, as follows:

> "The defendants-appellants were indicted separately for contempt of the Un-American Activities Commission, created and organized in accordance with the provisions of Sections 103.31 to 103.38, both inclusive, of the Revised Code, as supplemented by the act of the General Assembly passed on the 1st day of June 1951. By entry of Court, on agreement of counsel, the cases have been consolidated for the purpose of this appeal.
>
> The contempt charged is that the defendants, after having been duly sworn as witnesses before a duly constituted session of the Un-American Activities Commission, which met in the City of Canton, Ohio, on the 21st day of October, 1953, refused to testify in response to certain questions propounded to them.
>
> A Demurrer filed to the indictments was sustained by His Honor, Judge Weber, and the cases were appealed to this Court, Case Nos. 2621, 2622, 2623, 2624 and 2625, and this Court, in an Opinion written by the Honorable Judge McClintock, decided November 2, 1954, held that the Court below committed prejudicial error in sustaining the Demurrer and dismissing the indictments in each of the five cases, and the judgment of said lower court was reversed and the causes were remanded to said court for further proceedings according to law.
>
> Thereafter, the Supreme Court refused to certify, and the defendants waived their right to a jury and elected to be tried by a Judge of the Court in which the indictments were pending. Said trial proceeded before Judge Paul Weber, and on the 30th day of

March 1955, the Court found the defendants guilty on various counts of the individual indictments and sentenced each defendant to imprisonment in jail; for ten (10) days and to pay a fine of Five Hundred Dollars ($500.00) on each count of which they were convicted; the prison sentences, however, running concurrently and the fines other than the first one being remitted."

These cases are now before this Court on appeal by the defendants from that judgment rendered in the court below. They have all been consolidated in Case No. 2684 by agreement and heard together.

While this appeal is designated as one on law and fact, it is actually one upon law only, not being a chancery case, and is so treated by the parties and by the Court.

It is to be noted that this case was filed in this Court early in 1955 and all of the briefs were filed in that year. This case has not heretofore been heard in this Court because of the finding in the Supreme Court of Ohio of the case of *State v. Morgan*, 164 O. S. 529 (decided February 23, 1956) and the appeal of that case to the Supreme Court of the United States, where a decision was made remanding the case to the Supreme Court of Ohio for further consideration, in view of certain decisions of the United States Supreme Court.

Since the Supreme Court of Ohio in this case, upon remand (167 O. S. 295), adhered to its former judgment, this Court has now promptly heard this appeal.

The only argument of the appellants herein, while they filed no supplemental briefs, is that the facts are different than in the *Morgan* case and that the question propounded were not pertinent to the issues. The other arguments in brief of appellants are a rehash of the arguments in the various dissenting opinions in the *Morgan* case in the Supreme Court of Ohio.

We need not be concerned with the latter arguments. While they may or may not be cogent, the majority opinion controls this Court.

A review of this record shows that the facts of this case come squarely within the purview of the facts and decision in the *Morgan* case, *supra*, and we are bound thereby.

The only remaining question before this Court is as to whether or not the questions propounded by the Committee, were pertinent to the issues under investigation. The lower Court said that they were in the instances in which judgment was rendered, and we are in accord with that finding.

There being no error in the record, the judgment is affirmed.

McCLINTOCK, *P.J.* and McLAUGHLIN, *J.* concur.

APPENDIX B.

Decision of the Court of Common Pleas of Stark County, Ohio.

March 30, 1955.

WEBER, *J.*,

The following decisions shall apply generally and individually to each of the above named defendants.

These cases have been submitted to this Court for the first time upon the merits and the evidence and briefs of counsel, each defendant having duly waived a jury trial and having agreed to a joint trial. Each defendant was indicted by a Grand Jury of this County on December 24, 1953, and each indictment contained ten counts of contempt for refusing to testify or answer questions before the Ohio Un-American Activities Commission which met in this County on October 21, 1953.

As to the powers and duties of the Commission, Section 103.34 R. C., says:

"The Un-American activities commission shall:

(A) Investigate, study, and analyze:

(1) All facts relating to the activities of persons, groups, and organizations whose membership includes persons who have as their objective or may be suspected of having as their objective the overthrow or reform of our constitutional governments by fraud, force, violence, or other unlawful means;

(2) All facts concerning persons, groups, and organizations, known to be or suspected of being dominated by or giving allegiance to a foreign power or whose activities might adversely affect the contribution of this state to the national defense, the safety and security of this state, the functioning of any agency of the state or national government, or the industrial potential of this state;

(3) The operation and effect of the laws of this state, of the several other states, and of the United States, which purport to outlaw and control the activities enumerated in this section and to recommend such additional legislation or revision of existing laws as may seem advisable and necessary;

(B) Maintain a liaison with any agency of the federal, state, or local governments in devising and promoting means of disclosing those persons and groups who seek to alter or destroy the government of this state or of the United States by force, violence, intimidation, sabotage, or threats of the same.

The commission has such additional rights, duties, and powers as are necessary to enable it fully to exercise those specifically set forth in this section and to accomplish its lawful objectives and purposes."

As to the powers of the chairman of the Commission with respect to witnesses, Section 103.35 R. C., says in part:

"In case of disobedience on the part of any person to comply with a subpoena issued on behalf of the commission or on the refusal of any person or officer to testify to any matters regarding which he may be lawfully interrogated, or to conform to section 2705.02 of the Revised Code, the chairman may be authorized by a majority of the members sitting at the time the alleged offense is committed, to cause a proceeding for contempt to be filed and prosecuted in the court of common pleas of any county under sections 2705.03 to 2705.09, inclusive, of the Revised Code."

As to the immunity of a witness who testified, Section 101.44 R. C., says:

"Except a person who, in writing, requests permission to appear before a committee or subcommittee of the general assembly, or of either house thereof, or who, in writing, waives the rights, privileges, and immuni-

ties granted by this section, the testimony of a witness examined before a committee or subcommittee shall not be used as evidence in a criminal proceeding against such witness, nor shall a person be prosecuted or subjected to a penalty or forfeiture on account of a transaction, matter, or thing, concerning which he testifies, or produces evidence. This section does not exempt a witness from the penalties for perjury."

As to acts in contempt, Section 2705.02 R. C., says in part:

"A person guilty of any of the following acts may be punished as for a contempt:

(C) A failure * * * to answer as a witness, when lawfully required."

As to the trial and penalty, Section 2705.05 R. C., says:

"Upon the day fixed for the trial in a contempt proceeding the court shall investigate the charge, and hear any answer or testimony which the accused makes or offers.

"The court shall then determine whether the accused is guilty of the contempt charge. If it is found that he is guilty, he may be fined not more than five hundred dollars, or imprisoned not more than ten days, or both."

Although in similar cases in Ohio involving the failure or refusal of witnesses to testify before the Un-American Activities Commission, the Common Pleas Courts of the counties of Summit, Franklin, Hamilton and this Court have been at some variance as to the procedure to follow in preferring the charges, all of these courts, including this court, have been in agreement in sustaining the legality of the Commission and its right and power to subpoena witnesses, have them sworn and testify to the matters set forth in Section 103.34 R. C., and such addi-

tional rights and powers of the Commission to accomplish its lawful objectives and purposes.

This Court in the instant cases also holds that the Commission was legally constituted at the hearings held on October 21, 1953, to which the defendants were duly subpoenaed and that the defendants were duly sworn to testify.

This Court also holds that these defendants are properly before this Court on indictments duly presented by a grand jury of this County charging that said defendants did unlawfully refuse to testify at the aforesaid hearing to matters regarding which they could be lawfully interrogated and be lawfully required to answer.

This Court further holds that the defendants were legally bound to testify to any matters regarding which they might be lawfully interrogated and to answer as witnesses when lawfully required, and a refusal to do so would make them guilty of contempt provided:

1. That the question propounded either was preliminary to the matter under inquiry or was relevant to the accomplishment of the lawful objectives and purposes of Section 103.34 R. C.

2. That the defendants intentionally, deliberately and with full knowledge of the consequences, refused to answer so as to show a contumacious conduct upon their part.

3. That the defendants' testimony in answer to the interrogatories could not be used as evidence in any criminal proceeding against them in the event their testimony might be self-incriminating. That is, that they were granted complete immunity as witnesses.

As to No. 3, this Court holds that Section 101.44 R. C., granted the defendants complete immunity and that any

protection of the Fifth Amendment of the United States Constitution and Section 10, Article 1, of the Ohio Constitution, or any other parts of these constitutions, are therefore, not available to the defendants. The record shows that these five defendants were all present at the hearing together with their counsel and that each could hear the counsel for the Commission explain the question of immunity and claim of privilege (p. 7).

As to No. 2, this Court holds that the defendants had such intention and knowledge and still exhibited contumacious conduct in refusing to answer. Starting with the first witness, Olga Perry, the chairman made it clear that the witnesses were required and ordered to answer. (pp. 8, 9, etc.) No particular or specific ritual is required to put a witness in contempt. The entire record contains sufficient evidence to support a finding that each defendant deliberately and intentionally refused to answer. The evidence is ample that each defendant was made well aware that the Commission desired answers to its questions despite the grounds they advanced in refusing. These are not cases where out of dozens of questions a witness refuses to answer one or two questions under claim of privilege, etc., in which event an order to answer might be required.

This brings us to No. 1, which involves each question in each count of the indictments. The Court shall consider same as to each defendant separately.

Le Vernne Slagle

First Count. There are two questions involved in this question: first, whether defendant was chairman of the Peace Mobilization Committee, and, second, was it Communist-dominated. Thus the question was so called "double-barrelled" and improper. Not guilty.

Second Count. Two questions again: first, was he active in the North Side Peace League, and, second, did the Communist party set it up. Not guilty.

Third to tenth count inclusive—guilty each count.

Paul Bohus

First Count. Time referred to—years 1932 to 1935. (p. 37.) Guilty.

Second to Fifth count inclusive. Guilty each count.

Sixth Count. Refers to the commission of a criminal act in the future. Not Guilty.

Seventh Count. Guilty.

Eighth Count. Time referred to—year 1940 (p. 45). Guilty.

Ninth Count. Guilty.

Tenth Count. Refers to a possible event of the future, and question also is too vague. Not Guilty.

Olga Perry

First Count. Might go to the question of whether or not she was using an assumed name. Guilty.

Second Count. Question not relevant—would make no difference what the names were. Not Guilty.

Third, Fourth and Fifth Counts. Guilty each count.

Sixth Count. Question too vague. Not guilty.

Seventh and Eighth Counts. Guilty each count.

Ninth Count. Word "she" refers to Eva Nemeth. (p. 24.) Guilty.

Tenth Count. Refers to a possible event of the future, and question also is too vague. Not Guilty.

Eula Ann Cooper

First, Second and Third Counts. Guilty each count.

Fourth Count. Time refers to prior to September 1948. (p. 78.) Guilty.

Fifth Count. Guilty.

Sixth Count. Might go to the question of using an assumed name. Guilty.

Seventh, Eighth and Ninth Counts. Guilty each count.

Tenth Count. Refers to a possible event of the future, and also is too vague. Not Guilty.

Rose Mladajan

First to Seventh Count inclusive. Guilty each count.

Eighth Count. Refers to November 2, 1952—a fund raising meeting for the Progressive Party. Guilty.

Ninth Count. Too general a question and also is vague. Not Guilty.

Tenth Count. Guilty.

APPENDIX C.

Judgment of the Supreme Court of Ohio.

December 23, 1959.

This cause came on to be heard upon the transcript of the Record of the Court of Appeals of Stark County as upon the motion of the appellee to dismiss the appeal, filed as of right herein, and was argued by counsel.

On consideration whereof, it is ordered and adjudged that said appeal be, and the same hereby is, sua sponte dismissed for the reason no debatable constitutional question is involved in said cause.

It is further ordered and adjudged that the appellee recover from the appellants its costs herein expended, taxed at $_____.

ORDERED, That a special mandate be sent the Court of Common Pleas of Stark County, to carry this judgment into Execution.

ORDERED, That a copy of this entry be certified to the Clerk of the Court of Appeals of Stark County, "for entry."

(Duly certified.)

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JAMES R. BROWNING, Clerk

In the Supreme Court of the United States

OCTOBER TERM, 1960.

No. 105.

LAVERNE SLAGLE,
OLGA PERRY,
ROSE MLADAJAN,
EULA ANN COOPER,
PAUL BOHUS,
Appellants,

vs.

STATE OF OHIO,
Appellee.

APPEAL FROM THE SUPREME COURT OF OHIO.

BRIEF FOR APPELLANTS.

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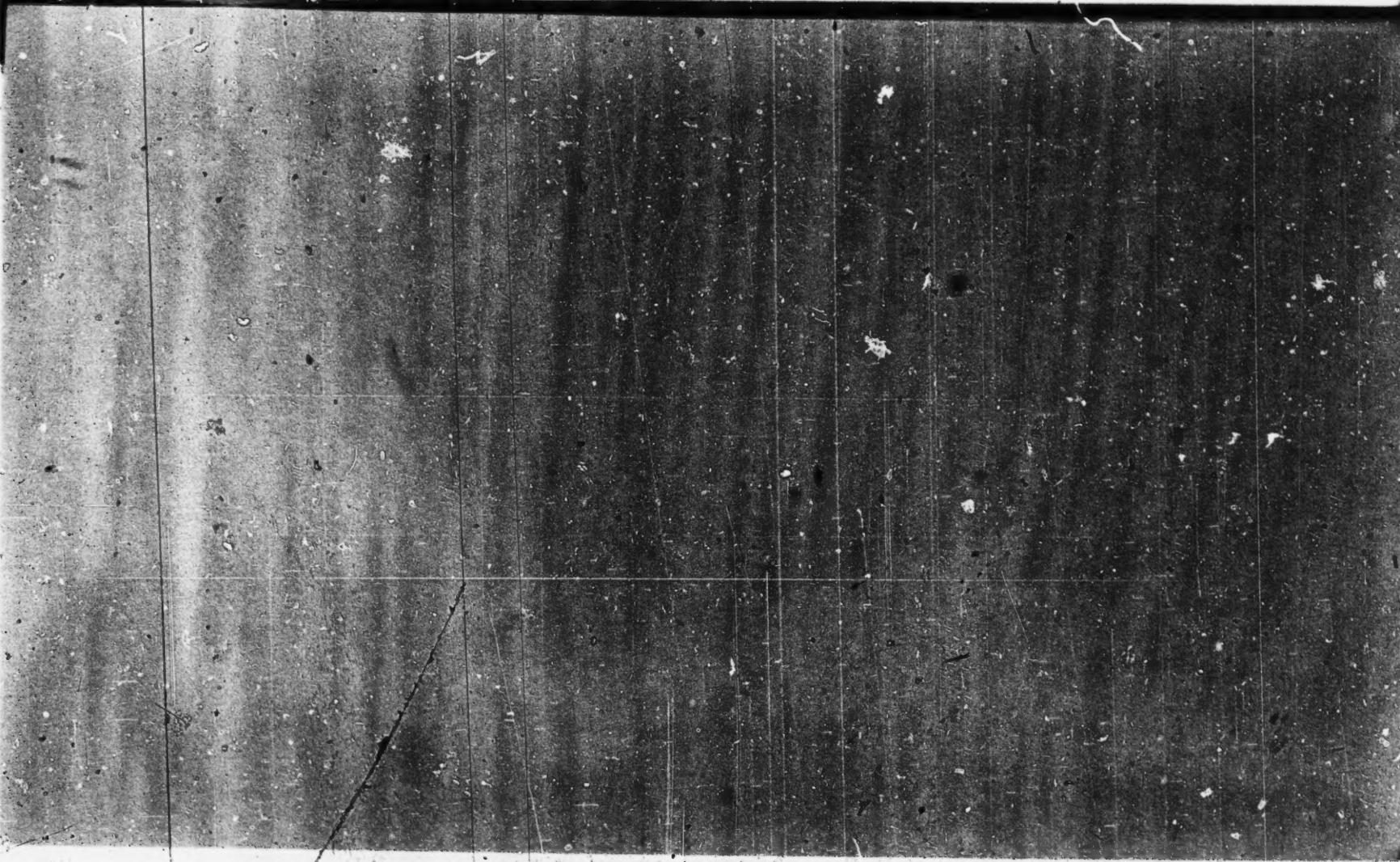

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In the Supreme Court of the United States

OCTOBER TERM, 1960.

No. 105.

LAVERNE SLAGLE,
OLGA PERRY,
ROSE MLADAJAN,
EULA ANN COOPER,
PAUL BOHUS,

Appellants,

vs.

STATE OF OHIO,

Appellee.

APPEAL FROM THE SUPREME COURT OF OHIO.

BRIEF FOR APPELLANTS.

OPINIONS BELOW.

Appellants were tried without a jury, February 28, 1955, Judge Weber, of the Court of Common Pleas of Stark County, Ohio, rendered his decision on March 30, 1955, together with a written opinion (R. 188-194). The Court of Appeals of Stark County, Ohio, unanimously affirmed the judgment with a written opinion May 16, 1958 (R. 196-198). Journal Entry was filed by the Court of Appeals of Stark County, Ohio, June 6, 1958 (R. 199). None of these opinions is reported.

The Ohio Supreme Court without opinion overruled the Appellants Motion for an Order directing the Court of Appeals of Stark County, Ohio to Certify its Record on December 23, 1959 (R. 203), and also without opinion dismissed sua sponte the Appellants' appeal filed as of right

for the reason no debatable constitutional question was involved on December 23, 1959, (R. 203-204). Reported in 170 O. S. 216, 163 N. E. (2d) 177.

JURISDICTION.

The judgment of the Supreme Court of the State of Ohio was entered December 23, 1959 (R. 203-204). Appellants' application for rehearing was denied on January 13, 1960 (R. 209). The notice of appeal to this Court was filed in Supreme Court of Ohio on April 11, 1960 (R. 209-212). On October 10, 1960, this Court entered an order postponing further consideration of the question of jurisdiction to the hearing of the case on the merits (R. 212).

The jurisdiction of this Court rests on 28 U. S. C. Sec. 1257 (2).

This Court has jurisdiction to hear an appeal testing the constitutionality of a state statute establishing a legislative investigation committee in the field of "subversive activities." *Uphaus v. Wyman*, Oct. Term 1958, No. 34, 356 U. S. 926.

This Court has jurisdiction to hear an appeal testing the constitutionality of a state statute or constitutional provision abridging First and Fourteenth Amendment freedom of thought and association by coercing persons into refraining from proscribed speech and association. *Speiser v. Randall*, 357 U. S. 513; *N.A.A.C.P. v. Alabama ex rel. Patterson*, 357 U. S. 449.

This Court has jurisdiction to hear an appeal testing whether the method established in a state statute or constitutional provision for determining the political beliefs and affiliations of a person is fair or whether it constitutes a denial of due process of law under the Fourteenth Amendment. *Speiser v. Randall*, cited *supra*, at 520.

This Court has jurisdiction to review convictions for contempt of state legislative investigating committees in order to determine whether a witness was deprived of due process of law under the Fourteenth Amendment. *Sweezy v. New Hampshire by Wyman*, 354 U. S. 234, *Raley v. Ohio*, 360 U. S. 423.

And this Court has jurisdiction to determine whether the separation of the power of a state legislature to conduct investigations from the responsibility to direct the use of that power causes a deprivation of the constitutional rights of individual witnesses and a denial of due process under the Fourteenth Amendment. *Sweezy v. New Hampshire by Wyman*, cited *supra*.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED.

United States Constitution:

Article I, Section 8, Sub-section (1)

"The Congress shall have power:

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;"

Article I, Section 10, Sub-section (1)

"No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility."

Article II, Section 2, Sub-section (1)

"The President shall be commander in chief of the army and navy of the United States, and of the militia

of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

Article VI, Sub-section (2)

"Supremacy of the National Government

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

First Amendment

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Fifth Amendment

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Fourteenth Amendment, Section 1

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Ohio Constitution:

Article I Section 10 provides in part:

"* * * no person shall be compelled, in any criminal case to be a witness against himself; * * *"

Ohio Statutes:

Ohio Revised Code Section 103.31-103.38 provides:

"Section 103.31 UN-AMERICAN ACTIVITIES COMMISSION.

There is hereby created an un-American activities commission in the legislative branch of the government, consisting of six members of the senate and six members of the house of representatives, resectively. The president pro tempore of the senate and the speaker of the house of representatives shall be members and shall appoint as members of the commission five additional members in each house, not more than three of whom shall be members of the same political party. When a vacancy of the membership of the commission occurs it shall be filled in the same manner as the original appointments.

Section 103.32 ORGANIZATION.

The un-American activities commission shall organize by selecting from its membership a chairman, a vice-chairman, and a secretary. The members of the commission shall serve without compensation but

shall be reimbursed for their actual and necessary expenses incurred in the discharge of their official duties.

Section 103.33 LEGAL DIRECTOR AND ASSISTANTS.

The un-American activities commission shall employ and fix the compensation of a legal director who shall employ, with the approval of the commission, such assistants, stenographers, and clerks, and engage the services of such professional investigators or technical advisors as the commission deems necessary to carry out the objects and purposes of section 103.34 of the Revised Code.

The salaries and all expenses incurred by the commission shall be paid from the state treasury upon the warrant of the auditor of state by voucher approved by its chairman.

Section 103.34 POWERS AND DUTIES.

The un-American activities commission shall:

(A) Investigate, study, and analyze:

(1) All facts relating to the activities of persons, groups, and organizations whose membership includes persons who have as their objective or may be suspected of having as their objective the overthrow or reform of our constitutional governments by fraud, force, violence, or other unlawful means;

(2) All facts concerning persons, groups, and organizations, known to be or suspected of being dominated by or giving allegiance to a foreign power or whose activities might adversely affect the contribution of this state to the national defense, the safety and security of this state, the functioning of any agency of the state or national government, or the industrial potential of this state;

(3) The operation and effect of the laws of this state, of the several other states, and of the United States, which purport to outlaw and control the activities enumerated in this section and to recommend such additional legislation or revision of existing laws as may seem advisable and necessary;

(B) Maintain a liaison with any agency of the federal, state, or local governments in devising and promoting means of disclosing those persons and groups who seek to alter or destroy the government of this state or of the United States by force, violence, intimidation, sabotage, or threats of the same.

The commission has such additional right, duties, and powers as are necessary to enable it fully to exercise those specifically set forth in this section and to accomplish its lawful objectives and purposes.

Section 103.35 POWERS OF CHAIRMAN AS TO WITNESSES.

In the discharge of any duties imposed by sections 103.31 to 103.38, inclusive, of the Revised Code, the chairman of the un-American activities commission may, throughout the state, administer oaths, issue subpoenas compelling the attendance of witnesses and the production of any papers, books, accounts, records, documents, and testimony, and cause the deposition of witnesses either residing within or without the state. In case of disobedience on the part of any person to comply with a subpoena issued on behalf of the commission or on the refusal of any person or officer to testify to any matters regarding which he may be lawfully interrogated, or to conform to section 2705.02 of the Revised Code, the chairman may be authorized by a majority of the members sitting at the time the alleged offense is committed, to cause a proceeding for contempt to be filed and prosecuted in the court of common pleas of any county under sections 2705.03 to 2705.09, inclusive, of the Revised Code. Each witness appearing before the commission by its order, other than a state official or employee, shall receive such compensation as the commission directs and mileage in the amounts provided by section 2335.08 of the Revised Code. Fees shall be authorized and paid after a notation has been made on the proper voucher sworn to by such witness and approved by the chairman of the commission.

Section 103.36. STUDIES MAY BE REQUIRED TO BE SUBMITTED.

Each officer, board, commission, or department of the state government or of any local government shall make such studies as the un-American activities commission requires within the limitations of its budget and shall furnish the commission all such assistance, information, records, and documents as it requires for the accomplishment of its duties. Reports and recommendations resulting from such studies shall be presented to the commission at least within sixty days prior to the regular session of the 100th General Assembly.

The commission may require the services of the bureau of code revision, judicial council, legislative reference bureau, legislative research commission, the Ohio program commission, and such other departments and agencies as it deems necessary to prepare a program of legislation as provided by section 103.34 of the Revised Code.

Section 103.37 MEETING; SUBCOMMITTEES.

The un-American activities commission shall meet as often as is necessary to perform its duties, provided that in any event it shall meet at least once each quarter. Five members constitute a quorum, and the majority thereof have authority to act on matters within the jurisdiction of the commission. The commission shall formulate such rules of procedure and policies to be followed in the performance of its duties and functions as it deems necessary and appropriate. The chairman may appoint subcommittees, consisting of not less than three members of the commission, which shall have all the powers conferred upon the commission itself by sections 103.31 to 103.38, inclusive, of the Revised Code, and such specific duties as are assigned to them. A majority of each subcommittee constitutes a quorum. The chairman of any subcommittee has all of the powers conferred upon

the chairman of the commission by sections 103.31 to 103.38, inclusive, of the Revised Code.

Section 103.38 REPORTS.

The un-American activities commission shall keep minutes of each meeting or hearing and a record of all testimony and evidence submitted to it. It may make such reports, findings, and recommendations, based upon its investigations and studies, as it deems advisable and necessary, to the people, the members of the One Hundredth General Assembly, individually, or in any special session thereof, and to the governor. It shall complete its work by and render a final report of its activities and of its recommendations to the One Hundredth General Assembly, the governor, and the attorney general on January 31, 1954, at which time all of its records, books, documents, and other property shall be committed to the attorney general. Any member of the general assembly, the governor or the attorney general shall nave the right to attend any session of the commission, and may present his views on matters which the commission may be considering."

Ohio Revised Code Section 101.44 provides:

"Except a person who, in writing, requests permission to appear before a committee or subcommittee of the general assembly, or of either house thereof, or who, in writing, waives the rights, privileges, and immunities granted by this section, the testimony of a witness examined before a committee or subcommittee shall not be used as evidence in a criminal proceeding against such witness, nor shall a person be prosecuted or subjected to a penalty or forfeiture on account of a transaction, matter, or thing, concerning which he testifies, or produces evidence. This section does not exempt a witness from the penalties for perjury."

Ohio Revised Code, section 2705.03. Hearing.

"In cases under section 2705.02 of the Revised Code, a charge in writing shall be filed with the clerk of the court, an entry thereof made upon the journal, and an opportunity given to the accused to be heard, by himself or counsel. This section does not prevent the court from issuing process to bring the accused into court, or from holding him in custody, pending such proceedings."

Ohio Revised Code section 2705.05. Trial.

"Upon the day fixed for the trial in a contempt proceeding the court shall investigate the charge, and hear any answer or testimony which the accused makes or offers.

"The court shall then determine whether the accused is guilty of the contempt charge. If it is found that he is guilty, he may be fined not more than five hundred dollars or imprisoned not more than ten days, or both."

QUESTIONS PRESENTED.

(1) Whether the statute establishing the Un-American Activities Commission of Ohio is repugnant to the United States Constitution because:

(a) The state has no power to act in national and international affairs, or in the field of subversion, which Congress has fully occupied;

(b) The Commission's investigation of the political beliefs, associations and activities of private citizens necessarily abridged their constitutionally protected freedoms;

(c) The requirement that the Commission "disclose" all persons and groups having certain objectives serves no valid legislative purpose and pins a "badge of disloyalty" on individuals, without due process of law;

(d) The language of the statute is vague;

(e) The vague grant of authority to the Commission made it impossible for a reviewing court to judge whether the Commission had ranged outside the area committed to it by its parent assembly, and insulated the Assembly from the witnesses subjected to the sanctions of compulsory process.

(2) Whether the Ohio immunity act, as interpreted by the Supreme Court of Ohio, is repugnant to the United States Constitution because:

(a) The act displaces the right of a witness to refuse to answer questions on the ground of self-incrimination when the answers could become the basis for prosecution in the federal jurisdiction, which is coterminous with state jurisdiction;

(b) The act, as interpreted and applied, permits a witness to be convicted of contempt for refusal to answer questions which he was not directed to answer, and without instructing him that he is clothed with immunity from state prosecution;

(3) Whether appellants were denied due process of law under the Fourteenth Amendment by conviction for wilful refusal to answer questions pertinent to the matter under inquiry, when:

(a) The evidence does not support a finding that appellants wilfully refused to answer the questions;

(b) The evidence does not support a finding that the questions asked were pertinent to the matter under inquiry.

STATEMENT OF THE CASE.

On the 21st day of October, 1953, these appellants appeared before the Ohio Un-American Activities Commission in obedience to subpoenas served upon them.

The hearing before said Commission was held in the Stark County Court House in open session.

Each appellant was represented by counsel, and upon advice of counsel each appellant declined (upon constitutional grounds) to answer some of the questions propounded to them; and upon advice of counsel each of the appellants **did answer** some of the questions propounded to them.

On the 24th day of December, 1953, each of the appellants were indicted ten (10) counts each by the Stark County Grand Jury, each count based upon a question that appellant had declined to answer. (R. 1-31.)

On March 19, 1954, the trial court sustained a demurrer of the appellants and dismissed said indictments. Said decision was appealed to the Stark County Court of Appeals, and on November 2, 1954, the decision of the lower court was reversed and the causes were remanded to said court for further proceedings, according to law. Thereafter the Ohio Supreme Court refused to certify.

The appellants proceeded to trial, having waived their right to jury trial. On the 30th day of March, 1955, the trial court found each of the appellants guilty on various counts of the individual indictments and sentenced each appellant to imprisonment in jail for ten (10) days and to pay a fine of Five Hundred Dollars ($500.00) on each count of which they were convicted; the jail sentences, however, running concurrently and the fines other than the first one being remitted (R. 192-194) the trial court suspended execution of sentence and set an appeal bond of One Thousand Dollars ($1,000.00) for each appellant pending the within appeal.

The appellants did not actually refuse to answer but the record shows that they claimed the privilege of the Fifth Amendment to the Constitution of the United States and a similar provision of the Constitution of Ohio (*supra*, pages 4, 9); that a person cannot be compelled

to be a witness against himself. These responses to the questions asked by the Commission were made by the appellants upon advice of counsel as is shown by the record. (R. 87-187.)

The record (R. 87-187) shows that in only two instances was an appellant confronted with the clear decision of continuing to invoke his privilege or testing his right to such on a contempt proceedings (Olga Perry, R. 91, and Eula Ann Cooper, R 130, 134, 135). In all other instances the Commission *did not press* for an answer.

When the 100th General Assembly of the State of Ohio duly passed the Act known as The Devine-Bauer Bill No. 308, Ohio Revised Code, sections 2921.21, 2921.27 etc., relative to the investigation and control of subversive activities the authority of the Commission had been completely exercised. Said Act was duly passed over the Governor's veto on August 7, 1953. And said asembly adjourned sine die August 7, 1953. (O. R. C. sec. 103.38, *supra*, p. 9.)

The interrogation of the appellants took place in October, 1953, and since the 100th General Assembly was no longer functioning there was no reason for the commission to continue its hearings; inasmuch as its reports and recommendations had been received and acted upon by the 100th General Assembly as required by O. R. C. sec. 103.38.

During the cross-examination of Samuel L. Devine, Chairman of the Commission by Mr. Hilton, appellants counsel in the Stark County Common Pleas Court, the chairman admitted the recommended legislation had been enacted prior to the hearing date in Canton, Ohio (R. 45, 46).

The new statutes provided that the attorney general should appoint special assistants to investigate subversive

activities and that said special assistants may testify before any grand jury as to information he may have as a result of his investigations. Ohio Revised Code, section 2921.27 provided that any information acquired pursuant to Ohio Revised Code sections 2921.21 to 2921.27 inclusive which reflected on the loyalty of any resident of the United States could not be made public, except by permission of the Attorney General, or unless such resident had been indicted under the criminal law of Ohio or some other jurisdiction.

Shortly after Ohio Revised Code sections 2921.21 to 2921.27 were enacted the Ohio Attorney General ruled that the sections were unenforceable.

The statutes under which the indictments were drawn and under which the appellants were tried, convicted and sentenced are Ohio Revised Code Sections 2705.03 and 2705.05 (*supra* page 10).

The Court of Appeals of Stark County, Ohio, unanimously affirmed the conviction by a written opinion (R. 196-198).

The Ohio Supreme Court refused to certify and dismissed the appeal as of right without opinion. (R. 203-204.) Appellants' application for rehearing was denied. (R. 203-204.) On October 10, 1960, this Court noted probable jurisdiction and postponed further consideration of the question of jurisdiction to the hearing on the merits.

SUMMARY OF ARGUMENT.

I.

This case is similar to *Watkins v. United States* and *Sweezy v. New Hampshire*, and has precisely the same issues as *Raley v. Ohio*. The act establishing the un-American Activities Commission of Ohio is repugnant to the United States Constitution in several respects.

It is legislation in the field of "sedition," a field in which Congressional action has superseded state action, and it touches upon foreign affairs, a field in which federal power is exclusive and supreme.

It provides for investigations into the political beliefs, activities, and associations of persons in private life which can serve no valid legislative purpose, and which necessarily abridge the witnesses' First Amendment rights.

It requires the "disclosure" of persons and groups holding dissident political beliefs, with the threat of prosecution by the state or federal governments under sedition laws, but without a fair procedure for determining who falls into the category of "un-American," and with no valid legislative purpose, and therefore constitutes a denial of due process under the Fourteenth Amendment.

In addition, the language of the statute is too vague to meet due process standards, as was the similar language in *Sweezy* and *Watkins*.

Lastly, the vague grant of authority to the Commission gives no clear indication of the Assembly's interest in the information obtained at the hearings, and constitutes a denial of due process because it permits a complete separation of the Assembly's responsibility in this field from the operation of the Commission.

II.

The Ohio immunity act, as interpreted by the Ohio Supreme Court in this case, is repugnant to the United States Constitution because it requires a witness to answer questions which might incriminate him, without affording him protection sufficient to eliminate the threat of prosecution. When immunity is granted, a witness could not be prosecuted by the state. But he could still be prosecuted by the federal government. The threat of federal prosecu-

tion in this field of sedition is real and imminent. This is a field in which state and federal governments have been working together, and concurrent prosecutions by state and federal officials against the same individuals have occurred. This threat is made explicit in the statute establishing the said Commission, which requires that state officials cooperate with federal officials.

In addition, this immunity act, as interpreted and applied by the Ohio Supreme Court, permits convictions for contempt in the absence of directions to answer, and without knowledge on the part of the witness that the immunity act offers any protection against prosecution. This clearly denies due process of law.

III.

Appellants were denied due process of law under the Fourteenth Amendment by their convictions for wilful refusal to answer questions pertinent to the matter under inquiry, because their actions were no wilful refusals to answer, but proper claims of the privilege against self-incrimination as to questions which had a tendency to incriminate them in state and federal jurisdictions. The questioning body acquiesced in their claims of the privilege. This was indicated by the failure to direct the witnesses to answer the questions, after their original refusal, except in two instances.

The problems of pertinency raised in the *Watkins* and *Sweezy* cases are inherent in any investigations in the field of "un-American activities," and arose in the instant case because the witnesses were not informed of the purpose for which the hearing was called. Nor was there any guide by which they could determine, during the hearing, whether the specific questions asked were pertinent to any valid legislative purpose, since the statutory language is as vague as in *Watkins* and *Sweezy*.

ARGUMENT.

I.

THE STATUTE ESTABLISHING THE COMMISSION IS REPUGNANT TO THE UNITED STATES CONSTITUTION.

A. The State has no power to act in national and international affairs, or in the field of subversion, which Congress has fully occupied.

Appellants were subpoenaed pursuant to a statute establishing the Un-American Activities Commission whose stated purposes included, *inter alia*: investigations of persons and groups "dominated by or giving allegiance to *a foreign power*" or whose activities might adversely affect Ohio's contribution to *"the national defense,* * * * the functioning of any agency of the * * * *national government* or the industrial potential of this state"; to assist in the revision of *federal* sedition statutes; to "maintain liaison with any agency of the *federal* * * * *government*[s] *in devising and promoting means of disclosing* those persons and groups who seek to alter or destroy *the government* of this state or *of the United States* by force, violence, intimidation, sabotage or threats of the same." (Emphasis supplied.) Ohio Revised Code, Sec. 103.34(1)(a), (b), (c).

This Court has recognized that, in the twentieth century, seditious activity is a national problem, and is not directed against any single state. *Pennsylvania v. Nelson*, 350 U. S. 497. This statute makes this fact explicit.

The Constitution of the United States provides that the federal government shall have exclusive jurisdiction over the conduct of foreign affairs (Art. I, Secs. 8, 10; Art. II, Sec. 2) and over the protection of the federal government from invasions and insurrections (Art. I, Sec. 8). The statute which established the Ohio Commission gave it the power and duty to investigate activities in these

areas. Such provisions clearly contravene the federal Constitution.

This Court has held, in addition, "the Congress has intended to occupy the field of sedition. Taken as a whole, [the acts of Congress] * * * evince a Congressional plan which makes it reasonable to determine that no room has been left for the States to supplement it. Therefore a state sedition statute is superseded regardless of whether it purports to supplement the federal law." *Pennsylvania v. Nelson*, 350 U. S. 497, at 481.

The legislature of Ohio therefore could not pass a valid state sedition statute.

The act establishing the un-American Activities Commission was invalid for two reasons:

First, it operated as a state sedition statute. The method of enforcing this statute was through subpoenaing witnesses to appear at public hearings, asking questions concerning their own and other people's political activities and actions which might be "subversive" in the eyes of the Commission, disclosing the names of the witnesses to the public, and to other state and federal agencies. (See discussion on "disclosing" *infra*, at point I.c.)

Second, the act required the Commission to seek information which would be helpful in drafting additional statutes in the field of sedition for presentation to the Ohio General Assembly for passage. But, as this Court has explained, "* * * these [investigating committees] are restricted to the missions delegated to them, i.e., to acquire certain data to be used by the House or the Senate in coping with a problem that falls within its legislative sphere." *Watkins v. United States*, 354 U. S., at 205-6. Since sedition does not fall within the state legislative sphere, this statutory grant of authority to the Commission was also invalid.

When William B. Saxbe, co-author of legislation establishing the predecessor of the Commission, became Attorney General of Ohio in 1957, he recognized that this Court's decision in the *Nelson* case "said that Pennsylvania did not have the authority to enter the field of investigation of Un-American Activities, even though the statute had not said so, Congress had pre-empted the field. That ended the program in Pennsylvania, Ohio and a great many other states." *

Since the Assembly could not pass any valid statutes in this field already occupied by Congress, and limited to the federal government by the federal Constitution, the hearings had no valid legislative purpose and the statute authorizing such hearings was repugnant to the federal Constitution.

B. The Commission is given statutory authority to investigate the political beliefs, associations and activities of private citizens, thus abridging their constitutionally protected freedoms.

For lawyers accustomed to qualifying clauses, it is refreshing occasionally to read the First Amendment in the naked form in which it was written: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Since this Court's wise and necessary decision that the First Amendment guarantee of rights is implicit in the Fourteenth Amendment as against state action, *Palko v.*

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* William B. Saxbe, Address to the Columbus and Akron Bar Associations, 47 The Ohio Bar 1041, 1043, December 9, 1957.

Connecticut, 302 U. S. 319, at 325, citizens of state and nation have been encouraged to practice these freedoms. The Ohio Constitution also contains strong provisions concerning freedom of speech, press and assembly. (See Ohio Constitution, Article I, Sections 1, 2, 3 and 11.)

When these freedoms are consistently circumscribed by investigations and threats of jail for contempt, the need for the freedoms does not diminish and the fight to restore and maintain the First Amendment does not cease. But few dare exercise their rights, particularly the right to think thoughts which may prove dangerous to the existing order of things—whether in science or psychology or political theory. Yet the future of our society depends upon these new thoughts.

This Court has more recently described the effect of a state order requiring the disclosure of the names of members of an organization:

> "It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as the forms of governmental action in the cases above were thought likely to produce upon the particular constitutional rights there involved. This Court has recognized the vital relationship between freedom to associate and privacy in one's associations. * * * Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs. * * *" *N. A. A. C. P. v. Alabama*, 357 U. S. 449, at 460-62.

This Court is aware of the effect upon a person's ability to earn a living, his family, his status in the community merely from the receipt of a subpoena to appear before a committee investigating "un-American activities." *Wat-*

kins v. United States, 354 U. S., at 197. In *Speiser v. Randall*, this Court found that "the denial of a tax exemption for engaging in certain speech necessarily will have the effect of coercing the claimants to refrain from the proscribed speech." 357 U. S. 513 at 519.

A statute which has as its purpose the summoning of witnesses to appear, against their will, to be questioned about their political beliefs, associations and affiliations by an agency of the state with power to jail them for contempt is clearly repugnant to the First and Fourteenth Amendments.

In addition, this statute on its face would cause law-abiding citizens of Ohio to question their right to believe in various types of governmental reform, and their right to advocate such reforms. The section requiring the Commission to investigate all persons and organizations "whose activities might adversely affect * * * the industrial potential of the state" certainly contains a threat to the free exercise of constitutionally-protected rights by trade unions in every industry in the State of Ohio.

This Court held, in *Watkins*:

> "* * * Clearly, an investigation a subject to the command that the Congress shall make no law abridging freedom of speech press or assembly. While it is true that there is no statute to be reviewed, and that an investigation is not a law, nevertheless, an investigation is part of lawmaking. It is justified solely as an adjunct to the legislative process. The First Amendment may be invoked against infringement of the protected freedoms by law or by law-making." 354 U. S., at 197.

But here there is a statute to be reviewed. The statute establishing the Commission is itself repugnant to the First and Fourteenth Amendments.

One other First Amendment problem must be mentioned. The concept of "balancing contending principles" where First Amendment questions arise cannot be found in the wording of the Amendment or in the correspondence of its framers. But Ohio, like New Hampshire, apparently felt the need to be informed on the "elemental subject of self-preservation." This Court, balancing this State need against the rights of a witness, stated in 1957 that it did "not now conceive of any circumstances wherein a state interest would justify infringement of rights in these fields," i.e., the fields of freedom of association and thought, including unorthodox and dissenting thought. *Sweezy v. New Hampshire*, 354 U. S., at 251. Appellant believes that the same circumstances existed in 1953 at the time of this hearing in Ohio and that the state has made no showing to the contrary.

For all of these First Amendment reasons, the statute establishing the Commission is repugnant to the United States Constitution.

C. The statutory requirement that the Commission "disclose" all persons and groups having certain objectives serves no valid legislative purpose and pins a "badge of disloyalty" on individuals without due process of law.

The statute establishing the Commission requires it to maintain a liaison with agencies of the federal, state, and local governments "in devising and promoting means of disclosing those persons and groups who seek to alter or destroy the government of this state or of the United States by force, violence, intimidation, sabotage or threats of the same. * * *" Sec. 103.34(2).

It is commendable that the Commission itself became sensitive to the violations of due process inherent in its

procedures. Nor could the "disclosure" of persons serve a valid legislative purpose. In performing its function of initiating bills, and amending and repealing statutes, a legislature may need the information gained through legislative committee hearings. But a legislature does not need and cannot use information about the beliefs and activities of specific individuals while the constitutional prohibition against bills of attainder stands.

Clearly a legislative body has no power to disclose the names of persons as being "subversive" or "disloyal." As this Court stated recently: "We have no doubt that there is no congressional power to expose for the sake of exposure." There is "no general power to expose where the predominant result can only be an invasion of the private rights of individuals." *Watkins v. United States*, 354 U. S., at 200.

Under the Constitution and the Anglo-American concept of due process of law, an individual cannot be found guilty of crime unless certain procedures are followed. No agency of government can "disclose" that an individual has committed a crime until there has been an indictment or information, arraignment, trial, verdict, and opportunity for appeal. And each of these steps in the criminal procedure must be taken according to certain rules which protect the individual from the likelihood of conviction if, in fact, he is innocent.

It is obvious that a hearing before a legislative fact finding committee does not provide the procedural safeguards surrounding a defendant in a criminal case. There is no clear and concise statement of the charges against the witness in advance of the hearing; there are no rules of evidence in the hearing, such as the right to effective advice of counsel of the type required in criminal cases, the right to confrontation of opposing witnesses, and cross-

examination. Nor is there a right to be heard by a jury of one's peers, or for a determination by a person sitting as an objective, disinterested judge. There is no effective appeal from the "verdict" of the legislative Commission. There is, instead, "conviction" by questioning, and immediate disclosure of "guilt."

This Court has held that all hearings in the field of "un-American activities" restrain speech. The comments in *Speiser v. Randall* are therefore applicable here:

> "To experienced lawyers it is commonplace that the outcome of a lawsuit—and hence the vindication of legal rights—depends more often on how the fact-finder appraises the facts than on a disputed construction of a statute or interpretation of a line of precedents. Thus the procedures by which the facts of the case are determined assume an importance fully as great as the validity of the substantive rule of law to be applied. And the more important the rights at stake the more important must be the procedural safeguards surrounding those rights. * * * When the State undertakes to restrain unlawful advocacy it must provide procedures which are adequate to safeguard against infringement of constitutionally protected rights—rights which we value most highly and which are essential to the workings of a free society. Moreover, since only considerations of the greatest urgency can justify restrictions on speech, and since the validity of a restraint on speech in each case depends on careful analysis of the particular circumstances, the procedures by which the facts of the case are adjudicated are of special importance and the validity of the restraint may turn on the safeguards which they afford. * * *" 357 U. S., at 520.

The statute was invalid for the additional reason that it did not require "the necessary element of guilty knowledge" by the witness before he was subpoenaed and ques-

tioned and "disclosed" as "un-American." *Wieman v. Updegraf*, 344 U. S. 183.

It is of interest that the Attorney General of Ohio read with care, and with approval, this Court's decisions at the end of the 1956 October Term, and concluded:

> "* * * Notice that the error which has been the grounds for reversal in nearly all of [the cases discussed, including *Watkins, Sweezy, Yates, Jencks, et al.*] has been procedural error—either in the apprehension or trial of the offenders. The court is saying now that the threat of Communism has abated and that the doctrine of clear and present danger will not be heard in court. If you are going to catch a Communist, you must do it by the rules. Whether by means of a Congressional investigation, Attorney General's action, or however, it's no longer on a catch as catch can basis—but must be done strictly according to law and procedure. * * *
>
> "There is little logic in depriving liberty out of alleged necessity to prevent a similar deprivation later on. I think the interest of the court is to follow what the people want and expect today, namely, protection and preservation of civil liberties. * * *". William B. Saxbe, then Attorney General of Ohio, 47 Ohio Bar, at 1046-7.

The language of the statute establishing the un-American Activities Commission of Ohio makes necessary a finding that it is repugnant to the Federal Constitution.

D. The statute is invalid because of its vague language.

The authority given to the Ohio Commission was "broadly drafted and loosely worded," it provided a "sweeping mandate" to the Commission without properly stating the limits on the scope of the Commission's inquiry. The vice of vagueness found in the mandates of the House

Un-American Activities Committee, in *Watkins*, and of the Attorney General of New Hampshire, in *Sweezy*, are equally present here.

The Ohio Commission was directed to investigate "*all* facts relating to the activities of persons, groups, and organizations whose membership includes persons who have as their objective or *may be suspected of having* as their objective the overthrow or *reform* of our constitutional governments by fraud, force, violence, *or other unlawful means*; all facts concerning persons, groups and organizations, known to be or *suspected of being dominated by* or *giving allegiance to* a foreign power or whose activities might *adversely affect* the contribution of this state to the national defense, the safety and security of this state, the functioning of any agency of the state or national government or *the industrial potential of this state*; * * *" Sec. 103.34 Rev. Code.

Counsel could not define the italicized words and phrases, nor could appellant. Neither the legislature of Ohio nor the Ohio Commission nor the Ohio Supreme Court have defined these words and phrases with the degree of explicitness needed to meet due process requirements in a statute providing a criminal penalty for failure to answer questions.

Further, the statute contains no differentiation between "knowing" and "innocent" association or activity. *Wieman v. Updegraf, supra.*

E. The vague statutory grant of authority to the Commission made it impossible for a reviewing court to judge whether the Commission had ranged outside the area committed to it by its parent Assembly, and insulated the Assembly from the witnesses subjected to the sanction of compulsory process.

This Court, in its decisions in *Sweezy* and *Watkins*, considered at some length the proper wording of a grant of authority to a state or federal legislative investigating body, and the proper scope of its inquiry. The Court also considered the separation of the authority of the legislature to obtain information from the actual workings of the creature established by the legislature for this purpose. *Sweezy v. New Hampshire*, 354 U. S., at 245-7; *Watkins v. United States*, 354 U. S., at 201, 205-6.

The grant of authority to the Ohio Commission contained all of the evils mentioned in these two opinions, as a reading of Sec. 103.34 Rev. Code indicates.

In addition, the Ohio Commission did not question these appellants until after the *sine die* adjournment of the 100th General Assembly. And a witness who declined to answer questions before the Commission could be indicted for contempt without any action by the Assembly, or by a reviewing magistrate. In Congress, a contempt citation must be voted by the investigating committee, and approved by the entire House before an indictment can be drawn. (See *Watkins v. United States*, cited *supra*.) In New Hampshire, the witness who refused to answer questions asked by the attorney general acting as a legislative investigating committee was called before a judge, who decided whether such questions must be answered. The "committee" did not make the final determination that a contempt citation should be drawn. (See *Sweezy v. New Hampshire*, cited *supra*.)

The legislature in effect told the Ohio Commission to screen the citizenry of Ohio to bring to light anyone who fitted into the expansive statutory definitions. *Sweezy v. New Hampshire, supra,* at 253; *Watkins v. United States, supra,* at 204-5.

Appellants also contended that the Ohio General Assembly had delegated to the Commission the task of separating the classes of information deemed desirable, in the light of the legislature's object, from the information it could not validly acquire without infringement of the constitutional rights of the witnesses.

II.

THE IMMUNITY ACT, AS INTERPRETED BY THE SUPREME COURT OF OHIO, IS REPUGNANT TO THE UNITED STATES CONSTITUTION.

The Ohio immunity act, Sec. 101.44 Rev. Code, is a broad statute, within the meaning of the decision in *Counselman v. Hitchcock,* 142 U. S. 547. It provides that the "testimony * * * shall not be used as evidence in a criminal proceeding against him, nor shall a person be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter or thing, concerning which he so testifies, * * *" The language is almost identical with the language in the federal Immunity Act of 1954 passed upon by this Court in *Ullmann v. United States,* 350 U. S. 422, and in the New York immunity act passed upon by this Court in *Knapp v. Schweitzer,* 357 U. S. 371, except that the latter use the word "any" each time the Ohio act uses the word "a."

This Court has interpreted this section of the federal act as providing immunity from all prosecutions, federal or state. *Ullmann v. United States,* cited *supra,* at 436.

Chief Justice Warren, in his concurring opinion in *Regan v. People of New York,* 349 U. S. 58, pointed out that:

> "This Court has never held that a State, in the absence of an adequate immunity statute, can punish a witness for contempt for refusing to answer self-incriminatory questions. A case involving such facts has never been presented here."

This case presents this issue. Assuming appellants were granted complete immunity from state prosecution, they were left subject to prosecution by the federal government.

A. The immunity act, as interpreted and applied, permits a witness to be convicted of contempt for refusal to answer questions which he was not directed to answer, and without instructing him that he is clothed with immunity from state prosecution.

Counsel for appellants know of no previous case before a state or federal legislative investigating body in which a conviction for contempt was sustained in the absence of a direction from a member of the investigating body to the witness to answer the question following the witness' refusal to answer.

In the *Emspak*, *Bart* and *Quinn* cases, this Court explained at some length the nature of a direction to answer, that such a direction is "supported by long-standing tradition," "has been uniformly recognized in the procedure of both state and federal courts," and is one of the "minimal procedural standards" without which "there is lacking the element of deliberateness necessary for a conviction under Sec. 192 for a refusal to answer."

> *Quinn v. United States*, 349 U. S. 155, at 167-8;
> *Emspak v. United States*, 349 U. S. 190, at 202;
> *Bart v. United States*, 349 U. S. 219, at 223.

This Court cited several early cases of contempt of state legislative bodies in which the witness, after refusal to

answer before a subcommittee or committee of the legislature, was informed in writing that the legislature had voted to direct him to answer the question, and was then summoned before the legislature, where the question was repeated and he was given an opportunity to answer.

Ex parte McCarthy, 29 Cal. 395, at 398;
People v. Keeler, 99 N. Y. 463, at 471;
Lowe v. Summers, 69 Mo. App. 637, at 645.

In the *Watkins* and *Sweezy* decisions, this Court reiterated its concern that a witness before a legislative investigating committee be informed, from moment to moment, of his position in relation to the committee. The requirement that a witness be given a clear direction to answer any question which may become the subject of a contempt citation runs parallel to the requirement that a witness "have knowledge of the subject to which the interrogation is deemed pertinent." *Watkins v. United States*, cited *supra*, at p. 21; Frankfurter, *J.*, at 217.

III.

APPELLANTS WERE DENIED DUE PROCESS OF LAW BY CONVICTION FOR WILFUL REFUSAL TO ANSWER QUESTIONS PERTINENT TO THE MATTER UNDER INQUIRY.

A. The evidence does not support a finding that appellants wilfully refused to answer the questions.

The appellants did not actually refuse to answer but the record shows that they claimed the privilege of the Fifth Amendment to the Constitution of the United States and a similar provision of the Constitution of Ohio (*supra*, pages 4, 9); that a person cannot be compelled to be a witness against himself. These responses to the questions asked by the Commission were made by the appellants upon advice of counsel as is shown by the record (R. 87-187).

Blau v. U. S., 340 U. S. 159;
Raley v. Ohio, 360 U. S. 423.

"The test is whether the witness was commanded to answer regardless. * * *" *Raley vs. Ohio, supra,* at page 444.

In the absence of such directions, no wilful refusal can be found.

There is a presumption of innocence in every criminal case. A *presumptive intent to* commit a prohibited act has no place in a case such as this. See *Morissette v. United States*, 342 U. S. 246, at 275. Regardless of the wording of the contempt statute here, it was necessary for the State to show an intention on appellants' part to defy the order of the Commission. No such showing having been made, these convictions must be reversed.

B. The evidence does not support a finding that the questions asked were pertinent to the matter under inquiry.

In the *Wakins* and *Sweezy* cases, cited *supra*, this Court has carefully spelled out the requirement of pertinency in a legislative hearing in the field of "un-American activities": (1) the witness must be informed of the purpose of the hearing at which he appears; (2) he must be informed of the pertinency of the questions he is asked to a valid legislitive purpose. The Court held that a contempt conviction cannot be based on refusal to answer questions unless such questions fall into the category of matters upon which the parent legislative body wishes to be informed. *Sweezy v. New Hampshire*, cited *supra*, 354 U. S., at 253-255; *Watkins v. United States*, cited *supra*, 354, at 205-6, 208-9.

In the instant case, the language of the statute establishing the Commission was appellants' only guide to the pertinency of the questions asked, since the chairman and counsel of the Commission made no statement concerning . .

the scope of the hearing at the opening of the session at which appellants appeared. It is clear that the witnesses, during the hearing, could not have been able to judge, with the degree of explicitness and clarity required by the due process clause, whether the questions asked were pertinent to the matter under inquiry, as set forth in the statute.

The questions, like those criticized in the *Watkins* decision, radiated outward infinitely to any topic thought to be related in some way to armed insurrection, with a probe for a depth of detail even farther removed from any basis of legislative action and involving an attempt to collect and confirm minutiae on remote topics in the past.

The trial court held that the appellants were not guilty in refusing to answer certain questions, for various reasons, such as the question being "double barrelled and improper," "too vague," "not relevant," etc. (R. 192-194.)

CONCLUSION.

The questions appellants raised in this case throughout the State Courts and which they present to this Court are precisely the same ones that were raised in the *Morgan* and *Raley* cases.

Raley v. Ohio, 360 U. S. 423 at pages 425 and 437.

For the foregoing reasons it is submitted that appellants were constitutionally protected against the compelled testimony demanded of them by the Ohio un-American activities commission, and that the judgments affirming their convictions and sentences must accordingly be reversed.

Respectfully submitted,

THELMA C. FURRY,

Attorney for Appellants.

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In the Supreme Court of the United States

OCTOBER TERM, 1960.

No. 105.

LAVERNE SLAGLE,
OLGA PERRY,
ROSE MLADAJAN,
EULA ANN COOPER,
PAUL BOHUS,
Appellants,

vs.

STATE OF OHIO,
Appellee.

APPEAL FROM THE SUPREME COURT OF OHIO.

BRIEF FOR APPELLEE.

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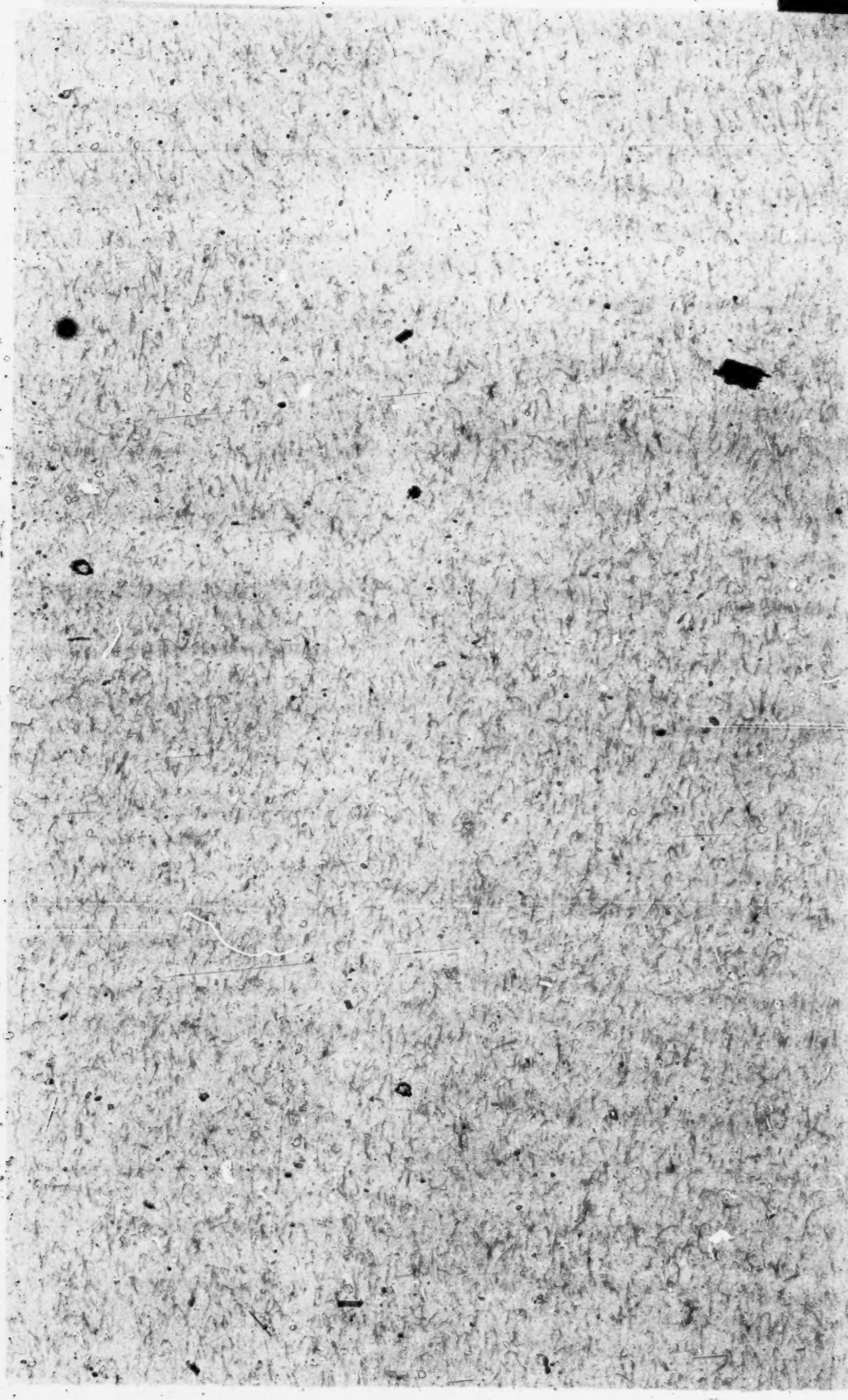

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BRIEF FOR APPELLEE.

STATEMENT OF THE CASE.

On the 21st day of October, 1953, the Un-American Activities Commission held a hearing in Stark County, Ohio, under the authority of the Constitution and the Ohio Revised Code. This Commission was first established in June, 1951, by the Ohio General Code, Sections 76-28 through 76-35. Upon the revision of the Ohio Code, these sections above mentioned were Ohio Revised Code 103.31 through 103.38, and had an effective date as of October 1, 1953. The purpose of the Commission was to hold hearings, inquire into and investigate the necessities of passing laws or amendments to existing laws in the field of Un-American Activities.

At the hearing on October 21, 1953, Laverne Slagle, Paul Bohus, Olga Perry, Eula Ann Cooper and Rose Mladajan, having been subpoenaed, appeared as witnesses before the Commission. This hearing was open to the general public and the Commission, itself, was seated in open session. The five named individuals, the Appellants in this cause, were sworn as witnesses in the presence of each other, and instructions were given to them prior to the taking of testimony. There was no separation of witnesses, and all the instructions, as well as the testimony of each, was heard by each of the Appellants. The Attorney for the Appellants, Thelma C. Furry, represented all but one of the five Appellants at the hearing before the Commission. Laverne Slagle, the fifth Appellant, was represented by an attorney by the name of Basil Pollitt, a member of the Bar of the State of New York, and was an associate of Mr. David Scribner, who had appeared before the Commission on a previous occasion.

The Commission record reveals that counsel was permitted to advise each of the clients, as well as to make statements into the record at the time of the hearing.

As the record reveals, upon the propounding of certain questions, the witnesses, and each of them, answered some in their entirety, answered some in part, and refused to answer others upon Constitutional grounds. Both the Amendment to the United States and the Ohio Constitutions were given as reasons for refusal to answer. The Commission hearing record reveals that, in the presence of all five Appellants, the immunity section of the Ohio Revised Code was made known to them. This section was known to each of the Appellants, to the Attorney representing each of them, and was reiterated to all during the hearings that were held on the 21st day of October, 1953. Direct questions were asked of all the Appellants and two

of them were specifically commanded to answer after a refusal on Constitutional grounds, this being done in the presence and hearing of the other three.

After the October hearings, the record and other evidence was transmitted to the Grand Jury of Stark County, which in regular session, indicted each upon various counts of refusal to answer under the Ohio Revised Code, Sections 2905.03 and 2905.05. The other operative facts as set forth in the record give to this Court a clear picture of the atmosphere at the time of the taking of the record before the Commission.

ARGUMENT.

Appellee concedes jurisdiction.

All of the questions presented by Appellants are answered in favor of Appellee by the holdings in *Raley v. Ohio*, 360 U. S. 423; and the second question in both parts is directly answered by *Knapp v. Schweitzer*, 357 U. S. 371.

CONCLUSION.

The convictions should be affirmed.

Respectfully submitted,

NORMAN J. PUTMAN,
Prosecuting Attorney,
Stark County, Ohio,
Attorney for Appellee,
The State of Ohio.

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In the Supreme Court of the United States

OCTOBER TERM, 1960.

No. 105.

LAVERNE SLAGLE,
OLGA PERRY,
ROSE MLADAJAN,
EULA ANN COOPER,
PAUL BOHUS,

Appellants,

vs.

STATE OF OHIO,

Appellee.

APPEAL FROM THE SUPREME COURT OF OHIO.

SUPPLEMENTAL BRIEF FOR APPELLEE.
STATEMENT OF ISSUES.

NORMAN J. PUTMAN,
Prosecuting Attorney,
Stark County Courthouse,
Canton 2, Ohio,
Attorney for Appellee.

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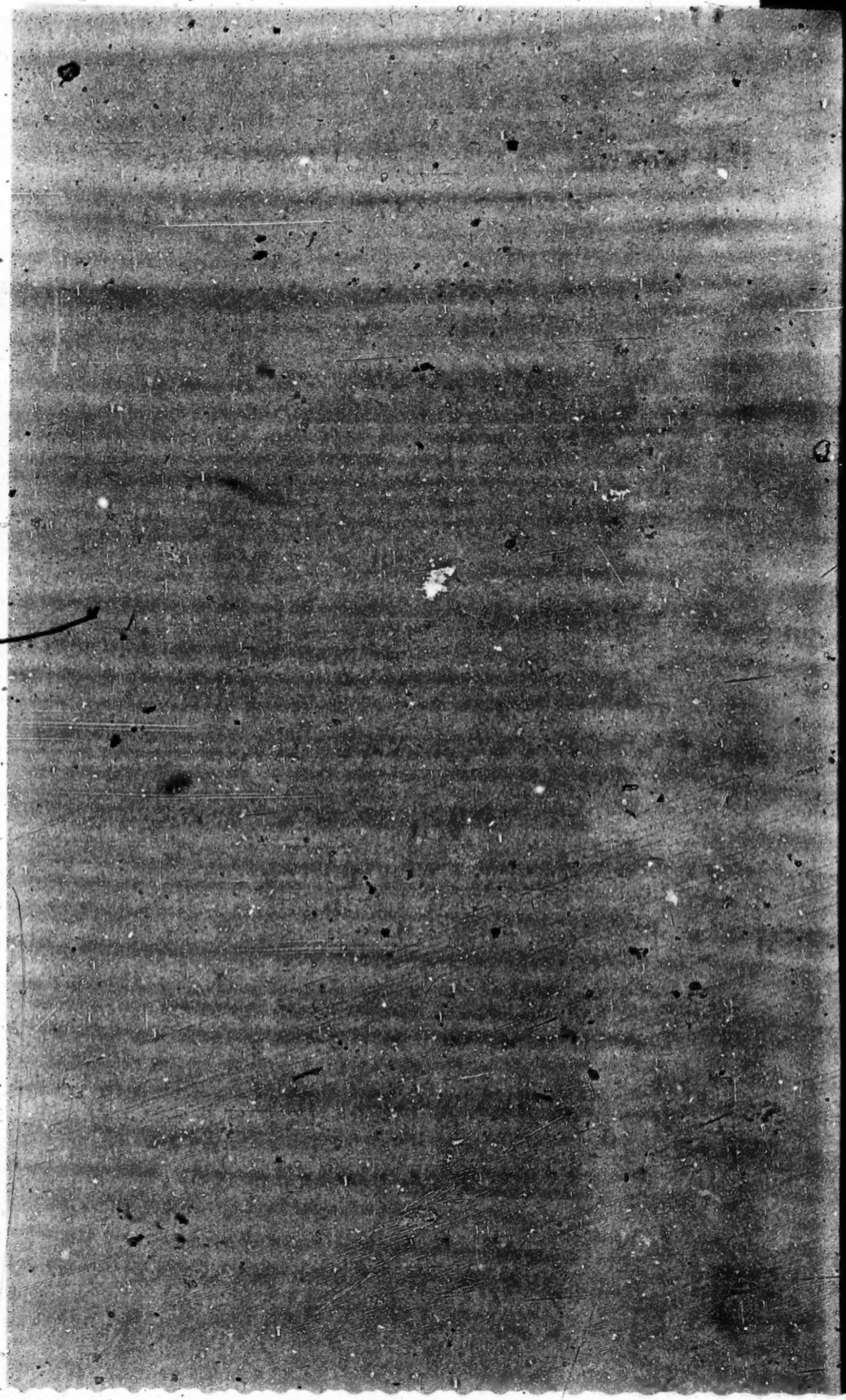

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APPEAL FROM THE SUPREME COURT OF OHIO.

SUPPLEMENTAL BRIEF FOR APPELLEE.

STATEMENT OF ISSUES.

This case involves 5 separate defendants, each convicted of contempt for refusing to answer several questions put to them by the Ohio Un-American activities Commission.

Set forth separately herein is each separate question and the Federal Amendment involved in defendant's refusal to answer. Where the defendant was ordered to answer and/or informed of immunity the record page where this appears is affirmatively indicated. Where not ordered or informed the space remains blank.

Considering each defendant separately, it may be observed that:

SLAGLE— Gave the First and Fifth and Fourteenth Amendments to the United States Constitution as a reason for refusal to answer all questions (R. 167, 168). Never was ordered to answer nor expressly informed of immunity.

BOHUS— Invoked the Federal Fifth Amendment as to all questions (R. 116). Informed of immunity on R. 111 but never ordered to answer.

PERRY— Invoked the Federal First, Fourth, Fifth, Ninth and Fourteenth Amendments. See R. 89. Ordered to answer on Count No. 1 on R. 91 and informed of immunity on R. 91.

COOPER— Invoked the Federal Fourth, Fifth and Ninth Amendments. See R. 127 and 129. Ordered to answer Counts 1, 5, and 6 on R. 129, 134, 135 Respectively. Never informed of immunity.

MLADAJAN—Invoked Federal Fifth Amendment for all (R. 145). Ordered to answer on Count No. 6. See R. 153. Never informed of immunity.

(All Amendments referred to are Federal Constitutional Amendments. Other reasons based on State law where given are not here summarized.)

In the chart is set forth only the text of questions for which convictions were had.

First appears the name, the number which the count containing the question is given in the indictment, the Record page where question is asked and then the text of the question.

Thereafter appears the Federal Constitutional Amendment invoked and next the Record page at which this appears.

If the witness was ordered to answer, the page of the record showing this appears in the next to last column.

The last column is reserved for showing those two instances where the particular defendant was informed about the immunity statute.

Count Number	Record page where asked	SLAGLE	Federal amendment invoked	See Record Page	Ordered to answer on Record Page	Informed of Immunity
3	170	I will ask you, if it is not a fact that during 1941 you regularly held Communist party meetings at 105 West Lane Ave., Columbus?	FIRST, FIFTH AND FOURTEENTH FOR ALL	SEE RECORD PAGES 167 AND 168	NEVER	NEVER
4	170	Are you acquainted with Benjamin Davis?				
5	173	I will ask you, if it is not a fact that in July of 1944, you were elected Secretary of the Communist Party Political Association?				
6	175	Do you know Gus Hall?				
7	176	I will ask you if it is not a fact that on the 11th of October, 1947, you attended a secret meeting at the Hotel Carter in Cleveland which was called for all U. E. Organizers who were also delegates to the State Communist party convention?				
8	182	Did you ever attend any Communist Party meetings with Herbert Hirschberg?				
9	182	During 1952, were you assigned by the Communist party in this area to work in the Progressive party?				
10	182	I will ask you if it is not a fact that you spoke at that time about the treatment that Communist party members were receiving in the United States?				

BOHUS

Count Number	Record page where asked		Federal amendment invoked	Ordered to answer on Record Page	Informed of Immunity
1	111	Now, were you out of the United States at any time during that period?	FIFTH FOR ALL	NEVER	RECORD PAGE 111
2	112	I will ask you if it is not a fact that on the 26th of June 1935, you did obtain a passport from the State Department and went to the Soviet Union?	SEE RECORD PAGE 116		
3	112	As a matter of fact, on the basis of that passport that you obtained on June 26, 1935, you went to the Soviet Union and attended the International Lenin Institute; isn't that correct?			
4	113	Do you know William O'Dell Noel?			
5	114	I ask you if you were taught sabotage and the practical methods of sabotage at the Lenin Institute?			
7	115	Now, do you recall that back in 1937, the Communist Party for the State of Ohio put out a year book?			
8	116	Now, the address you gave at that time was 1868 Guernsey Street, Belair (Bellaire), Ohio; did you live at that address?			
9	122	Did you ever hear of Louis Budenz?			

Count Number	Record page where asked	PERRY	Federal amendment invoked	See Record Page	Ordered to answer on Record Page	Informed of Immunity
1	89	What is your husband's name?	FIRST, FOURTH, FIFTH, NINTH, FOURTEENTH FOR ALL	89	91	91
3	92	I will ask you if it is not a fact that in July 1940, you attended a meeting of a communist group, meeting in Columbus, Ohio, under the name of the Ohio Youth Conference?				
4	93	Have you ever participated in any Communist gatherings here in Canton?				
5	95	Do you know who Arnold Johnson is?				
7	100	I will ask you if it is not a fact that on October 3, 1946, you held a meeting of the Communist youth arm, the American Youth for Democracy, in your own home?				
8	101	Now are you familiar with Gus Hall?				
9	102	As a matter of fact, she is the present treasurer of the Communist Party here in Canton, is she not?				

SEE RECORD PAGE 89

Record page where asked	COOPER	Federal amendment invoked	See Record Page	Ordered to answer on Record Page	Informed of Immunity
127 129	Where did you reside prior to September, 1948?	FOURTH, FIFTH, NINTH FOR ALL	SEE RECORD PAGES 127 and 129	129	
130	November 20, 1909, what was your name at the time you were born; what was the name given you on baptism?				
130	Did you ever hear the name Beulah Long?				
134	Were you living in the State of Ohio during that period?				
134	Did you ever live in the City of St. Louis, Missouri?			134 135	
135	What is your husband's name, Mrs. Cooper?				
137	Now, did you ever run for public office?				
138	I ask you if it is not a fact that at 3:17 P.M. on April 28, 1948, you filed your declaration of candidacy on this Communist Party ticket?				

Count Number	Record page where asked	MLADAJAN	Federal amendment invoked	See Record Page	Ordered to answer on Record Page
1	148	I ask you if it is not a fact that on January 12, 1944, you attended a meeting of the 10th Ward Branch of the Communist party held at the Diana Cafe in Canton?	FIFTH FOR ALL	SEE RECORD PAGE 145	153
2	148	Now do you know of Elizabeth Gurley Flynn?			
3	148 149	I will ask you if it is not a fact that in 1946 you signed the nominating petition for the communist party leader of Canton, Carl Gulyate, who was running for County Commissioner at the time?			
4	149	Did you take any part in the American Slav Conference?			
5	150	Do you know who Gus Hall is?			
6	153	Mrs. Mladajan, have you ever been in meetings at the Croatian Hall at any time except in your capacity as an employee?			
7	154	I ask you if it is not a fact during 1952 you were assigned by the Summit County section of the Communist Party to work in the Progressive Party in Stark County?			
8	155	For the fund raising raffle you agreed to furnish cakes which you had baked, isn't that true, Mrs. Mladajan?			
10	158	Now do you regard the Communist Party as a subversive and disloyal organization?			

March 9, 1961

Thelma C. Furry
815 Second National Bldg.
Akron 8, Ohio

Dear Miss Furry:

Here is my chart showing how the issues are struck relative to each question.

Have you any corrections or suggestions?

If it is okey, I will have copies prepared for your approval and submission.

Very truly yours,
NORMAN J. PUTMAN,
Prosecuting Attorney.

NJP/fc

THELMA C. FURRY
Akron 8, Ohio

March 13, 1961

Norman J. Putman,
Prosecuting Atty.
Stark County Courthouse
Canton 2, Ohio

Re: Slagle v. Ohio
USSC #105

Dear Mr. Putman:

I think you did a splendid job on the chart, while I did not proof-read it, I noticed two small errors on Mladajan's chart, number 3 question should be pages 148 & 149, and in question number 2 Elizabeth Gurley Flynn's name is misspelled. I assume that you are going to attach a title page to the copies you send to the USSC. I suggest that you send 10 copies of the chart, one for each judge and one for the clerk's office.

Although you told the court that you would send certain citations to them, I don't think Judge Bryant's decision has been reported, so you may want to add this information to the chart. *Judge Bryant's decision rendered October 13, 1953 is not reported, but is printed in the Transcript of Record in the Supreme Court of the United States, October Term, 1958, No. 463, Anna H. Morgan, Appellant, vs. State of Ohio, pages 9 through 36, see re immunity pages 32 & 33.*

The court was also interested in these dates, Judge Bryant's decision rendered October 13, 1953, the hearing before the Commission was held in Canton, October 21, 1953. The first decision of the Ohio Supreme Court re the immunity statute in the Morgan case was rendered February 23, 1956. 164 O. S. 529.

Yours truly,
THELMA C. FURRY.

TCF: is

SUPREME COURT OF THE UNITED STATES

No. 105.—October Term, 1960.

Laverne Slagle, et al., Appellants, v. State of Ohio.	On Appeal From the Supreme Court of Ohio.

[May 15, 1961.]

Mr. Justice Whittaker delivered the opinion of the Court.

Pursuing its statutory powers and duties to investigate subversive activities in Ohio,[1] The Ohio Un-American

[1] Ohio Rev. Code § 103.34 provides:

"POWERS AND DUTIES.

"The un-American activities commisson shall:

"(A) Investigate, study, and analyze:

"(1) All facts relating to the activities of persons, groups, and organizations whose membership includes persons who have as their objective or may be suspected of having as their objective the overthrow or reform of our constitutional governments by fraud, force, violence, or other unlawful means;

"(2) All facts concerning persons, groups, and organizations, known to be or suspected of being dominated by or giving allegiance to a foreign power or whose activities might adversely affect the contribution of this state to the national defense, the safety and security of this state, the functioning of any agency of the state or national government, or the industrial potential of this state;

"(3) The operations and effect of the laws of this state, of the several other states, and of the United States, which purport to outlaw and control the activities enumerated in this section and to recommend such additional legislation or revision of existing laws as may seem advisable and necessary;

"(B) Maintain a liaison with any agency of the federal, state, or local governments in devising and promoting means of disclosing those persons and groups who seek to alter or destroy the government of this state or of the United States by force, violence, intimidation, sabotage, or threats of the same. [*Footnote 1 continued on p. 2.*]

Activities Commission scheduled a hearing to commence at the Stark County Courthouse on the morning of October 21, 1953, and subpoened these five appellants to appear and testify before it at that time and place. Each appeared with counsel, was sworn and examined. Though having both constructive and actual knowledge of Ohio's immunity statute,[2] each objected to most of the questions propounded[3] on the ground that an answer would compel him to be a witness against himself, in violation of the Ohio Constitution and of the Fifth Amendment to the United States Constitution.[4] Appellants were not, in most instances, directed to answer, but in a few instances some of them (Perry, Cooper and Mladajan)

"The commission has such additional right, duties, and powers as are necessary to enable it fully to exercise those specifically set forth in this section and to accomplish its lawful objectives and purposes."

[2] Ohio Rev. Code § 101.44 provides:

"Except a person who, in writing, requests permission to appear before a committee or subcommittee of the general assembly, or of either house thereof, or who, in writing, waives the rights, privileges, and immunities granted by this section, the testimony of a witness examined before a committee or subcommittee shall not be used as evidence in a criminal proceeding against such witness, nor shall a person be prosecuted or subjected to a penalty or forfeiture on account of a transaction, matter, or thing, concerning which he testifies, or produces evidence. This section does not exempt a witness from the penalties for perjury."

[3] Except for a few preliminary questions, each appellant objected to and declined to answer most of the questions propounded—Slagle, 97 of the next 129 questions; Bohus, 97 of the next 99 questions; Perry, 110 of the next 118 questions; Cooper, 76 of the next 103 questions; and Mladajan, 88 of the next 123 questions.

[4] In addition to various state grounds, each appellant based his objections to the questions on the Fifth Amendment, but Slagle also invoked the First and Fourteenth Amendments, Perry also invoked the First, Fourth, Ninth and Fourteenth Amendments, and appellant Cooper also invoked the Fourth and Ninth Amendments, to the United States Constitution.

were directed to answer the question, yet flatly refused to do so.[5]

Acting pursuant to Ohio Rev. Code § 103.35,[6] the members of the committee who sat at the hearing author-

[5] Appellant Slagle, too, was directed by the chairman to answer one question, but he thereupon answered it. He was not directed to answer any other question.

Appellant Bohus was not directed to answer any of the questions.

Appellant Perry was directed by the chairman to answer the question, "What is your husband's name?", but refused to answer and that refusal was made the subject of Count 1 of the indictment against her. She was also directed to answer the question, "What are your parents' names?", but refused to answer and that refusal was made the subject of Count 2 of the indictment. However, the trial court acquitted her on that count on the ground that the question was immaterial. She was not directed to answer any other question.

Appellant Cooper was directed to answer the following questions:

"Where did you reside prior to September, 1948?" (Count 1.)

"What was your name at the time you were born; what was the name given you on baptism?". (Count 2.)

"Did you ever live in the City of St. Louis, Missouri?" (Count 5.)

"What is your husband's name, Mrs. Cooper?" (Count 6).

But she nevertheless refused to answer in each instance and those refusals were made the subjects of Counts 1, 2, 5 and 6, respectively, of the indictment against her. Although she refused, when directed, to answer another question, she was not indicted for that refusal. She was not directed to answer the questions on which Counts 3, 4, 7, 8, 9 and 10 of the indictment were based.

Appellant Mladajan was directed to answer the question, "Mrs. Mladajan, have you ever been in meetings at the Croatian Hall at any time except in your capacity as an employee?", but she refused to answer and that refusal was made the subject of Count 6 of the indictment against her. She was not directed to answer any other question.

[6] Ohio Rev. Code § 103.35 provides, in relevant part, that "[i]n case of . . . the refusal of any person . . . to testify to any matters regarding which he may be lawfully interrogated . . . the chairman may be authorized by a majority of the members sitting at the time the alleged offense is committed, to cause a proceeding for contempt

ized the chairman to cause contempt proceedings to be initiated against appellants under Ohio Rev. Code §§ 2705.02 to 2705.09,[7] and on December 24, 1953, each appellant was separately indicted in the court of common pleas of Stark County on 10 counts—each count charging willful failure, in violation of § 2705.02, to answer a question propounded by the Commission. Upon a joint trial to the court, each appellant was convicted and sentenced on some of the counts.[8] On consolidated appeals, the Stark County Court of Appeals affirmed,[9] the Supreme Court of Ohio, finding no debatable constitutional question presented, dismissed appellants' appeals to that court, 170 Ohio St. 216, 163 N. E. 2d 177, and, on appeals to this Court, we postponed further considera-

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to be filed and prosecuted in the court of common pleas of any county under sections 2705.03 to 2705.09, inclusive, of the Revised Code. . . ."

[7] Ohio Rev. Code § 2705.02 provides, in pertinent part:

"A person guilty of any of the following acts may be punished as for a contempt:

"(C) A failure . . . to answer as a witness, when lawfully required."

Ohio Rev. Code § 2705.05 provides:

"Upon the day fixed for the trial in a contempt proceeding the court shall investigate the charge, and hear any answer or testimony which the accused makes or offers.

"The court shall then determine whether the accused is guilty of the contempt charge. If it is found that he is guilty, he may be fined not more than five hundred dollars, or imprisoned not more than ten days, or both."

[8] Appellant Slagle was convicted on Counts 3 to 10, inclusive; Bohus was convicted on Counts 1, 2, 3, 4, 5, 7, 8 and 9; Perry was convicted on Counts 1, 3, 4, 5, 7, 8 and 9; Cooper was convicted on Counts 1 to 9, inclusive; Mladajan was convicted on Counts 1 to 8, inclusive, and 10. Each was sentenced to imprisonment for 10 days on each count—the sentences on all counts, in each instance, to run concurrently—and was fined $500 on each count, but the fines, other than the first one, were remitted in each instance.

[9] The opinion of the Stark County Court of Appeals is not reported.

tion of our jurisdiction to the hearing on the merits. 364 U. S. 811.

Appellants simply assert that we have jurisdiction over these appeals under 28 U. S. C. § 1257 (2). Despite the plain import of our postponing order, see Rule 16 (4) of this Court, they have entirely failed to show that any "timely insistence [was made] in the state courts that a state statute, as applied, is repugnant to the federal Constitution, treaties or laws." *Charleston Federal Savings & Loan Assn.* v. *Alderson*, 324 U. S. 182, 185. Accordingly, the appeals are dismissed. See *Raley* v. *Ohio*, 360 U. S. 423, 435. But since various federal constitutional claims were made below and are renewed here, 28 U. S. C. § 1257 (3), we consider the appeal papers as petitions for certiorari and, in view of the public importance of at least one of the questions presented, grant certiorari, 28 U. S. C. § 2103.

Appellants' principal contention here is that the judgments, finding them guilty of willful refusal to answer the Commission's questions although the Commission did not overrule their timely objections to the questions nor direct that they be answered, but appeared to sustain, or at least to acquiesce in, those objections, deprives appellants of due process in violation of the Fourteenth Amendment. In the peculiar factual situation presented, and limited to the questions which they were not directed to answer, we have concluded that appellants are right in this contention.

Surely traditional notions of fair play contemplate that a person summoned to testify before any adjudicatory or investigatory body, including a legislative investigatory committee, may object to any question put to him upon any available ground, however tenuous. And the Ohio Commission, several times and in many ways, clearly gave appellants to understand that such was their right at this hearing. Exercising that right, if not

actually accepting the Commission's invitation, appellants, except for a few preliminary questions, objected to most of the questions put to them, principally on the ground of the Fifth Amendment (but see note 4). With important exceptions to be noted, instead of overruling the objection or in any way directing the witness to answer the question, the Commission gave every indication that it sustained, or at least acquiesced in, the objection by immediately passing on to the next question. That process was scores of times repeated.

But, and lending emphasis to its normal acquiescence in the objections, the Commission, at times, adopted another and very different procedure. When the Commission's counsel advised the Commission that he considered a particular question to be competent and important and asked that the witness be directed to answer it, the chairman, in each such instance, directed the witness to answer the question. And in every such instance care was taken, either by the Commission's counsel or its chairman, to have the record show that at least a quorum of the Commission were then present and sitting. In that manner, as more fully shown in note 5, Slagle was directed to answer one question, and thereupon promptly answered it, but he was not directed to answer any other question; Bohus was not directed to answer any question; Perry was thus directed to answer the two questions that were made the subjects of Counts 1 and 2 of her indictment (she was acquitted on Count 2), but was not directed to answer the questions upon which the other eight counts of her indictment were based; Cooper was thus directed to answer the four questions that were made the subjects of Counts 1, 2, 5 and 6 of her indictment, but was not directed to answer the questions upon which the other six counts of her indictment were based; and Mladajan was thus directed to answer the question that was made the subject of Count 6 of her indictment.

but was not directed to answer the questions upon which the other nine counts of her indictment were based.

No particular form of words is necessary either to sustain or overrule an objection and thus either to excuse or require an answer to the question. All that is necessary is that the hearing tribunal make plain its disposition of the objection and whether or not an answer to the question is expected and required. If, as frequently happens, after an objection has been made, the hearing officer, addressing the examiner, merely says, "Pass on to your next question," it would indeed be plain that he had, at least temporarily, sustained or acquiesced in the objection and was not requiring an answer to be given. That is almost precisely what happened here. Though, upon these objections being made, the Commission did not formally direct its counsel to pass on to his next question, either the counsel or some member of the Commission did in fact immediately pass on to the next question. Those objections must therefore be regarded as sustained or acquiesced by the Commission. To hold that these witnesses, in these circumstances, willfully and contumaciously refused to answer those questions would deeply offend traditional notions of fair play and deprive them of due process.

That "a clear disposition of the witness' objection is a prerequisite to prosecution for contempt is supported by long-standing tradition here and in other English-speaking nations. In this country the tradition has been uniformly recognized in the procedure of both state and federal courts." *Quinn* v. *United States*, 349 U. S. 155, 167–168, and cases cited. See also *Emspak* v. *United States*, 349 U. S. 190, 202; *Bart* v. *United States*, 349 U. S. 219, 223. "Because of the [Commission's] consistent failure to advise [appellants] of [its] position as to [their] objections, [appellants were] left to speculate about the risk of possible prosecution for contempt;

[they were] not given a clear choice between standing on [their] objection[s] and compliance with a committee ruling." *Bart* v. *United States, supra*, at 223.

In these circumstances, to hold that these witnesses wilfully and contumaciously refused to answer the questions to which they objected but were not directed to answer would deprive them of due process in violation of the Fourteenth Amendment.

As to appellants' remaining contentions, including, (1) that because the Ohio immunity statute (see note 2) does not afford immunity from federal prosecution, they could not lawfully be compelled to answer questions over their Fifth Amendment objections to them, (2) that the questions which they refused to answer were not pertinent to the inquiry, and (3) that the Commission's investigation was without legislative purpose, the Court is equally divided.

It follows that the judgments against Slagle and Bohus must be reversed; that the judgment against Perry must be reversed as to Counts 3, 4, 5, 7, 8 and 9, and affirmed, by an equally divided Court, as to Count 1; that the judgment against Cooper must be reversed as to Counts 3, 4, 7, 8 and 9, and affirmed, by an equally divided Court, as to Counts 1, 2, 5 and 6; and that the judgment against Mladajan must be reversed as to Counts 1, 2, 3, 4, 5, 7, 8 and 10, and affirmed, by an equally divided Court, as to Count 6.

Appeals dismissed.
On writs of certiorari, judgments reversed as to Slagle and Bohus; judgments reversed in part and affirmed, by an equally divided Court, in part as to Perry, Cooper and Mladajan.

MR. JUSTICE FRANKFURTER took no part in the consideration or decision of these cases.